

EMERGENCY WETLANDS RESOURCES ACT OF 1985

HEARING
BEFORE THE
SUBCOMMITTEE ON
ENVIRONMENTAL POLLUTION
OF THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
NINETY-NINTH CONGRESS

FIRST SESSION

ON

S. 740

A BILL TO EXTEND UNTIL OCTOBER 1, 1995, THE AUTHORITY FOR APPROPRIATIONS TO PROMOTE THE CONSERVATION OF MIGRATORY WATERFOWL AND TO OFFSET OR PREVENT THE SERIOUS LOSS OF WETLANDS AND OTHER ESSENTIAL HABITAT, AND FOR OTHER PURPOSES

NOVEMBER 18, 1985

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CONTENTS

Chafee, Hon. John H., U.S. Senator from the State of Rhode Island, opening statement of	Page 1
---	-----------

WITNESSES

Babcock, Hope, deputy counsel, National Audubon Society	24
Written statement	59
Hayden, Wes, International Association of Fish and Wildlife Agencies, on behalf of Robert M. Brantly, executive director, Florida Game and Fresh Water Fish Commission	16
Written statement	42
Shepard, James M., special assistant to the executive vice president, Ducks Unlimited, Inc.	21
Written statement	55
Stieglitz, Walter O., Deputy Associate Director for Wildlife Resources, National Wildlife Refuge System, U.S. Fish and Wildlife Service	3
Written statement	28
Tindall, Barry, director, public affairs, National Recreation & Park Association	11
Written statement	33
Wentz, W. Alan, Fisheries and Wildlife Division, National Wildlife Federation	18
Written statement	45
Williamson, Lonnie L., secretary, Wildlife Management Institute	10
Written statement	30

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

S. 740	84
Statements:	
Izaak Walton League of America, The	67
National Cattlemen's Association	69
Texas and Southwestern Cattle Raisers Association	72
Whitesell, Dale E., et al	76
Wildlife Legislative Fund of America, The	80

EMERGENCY WETLANDS RESOURCES ACT OF 1985

MONDAY, NOVEMBER 18, 1985

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:03 p.m., in room SD-406, Dirksen Senate Office Building, Hon. John H. Chafee (chairman of the subcommittee) presiding.

Present: Senators Chafee and Symms.

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. We want to welcome everybody here this afternoon.

This is a meeting of the Subcommittee on Environmental Pollution of the Committee on Environment and Public Works. The subject is S. 740, the Emergency Wetlands Resources Act of 1985. This bill was introduced by Senators Stafford, Durenberger, Bentsen, Mitchell, and myself. The purpose of it is to accelerate Federal and State acquisition of wetlands.

We've already devoted a good deal of time and effort to developing the provisions of this legislation which I consider to be very important.

More than 2 years ago, the full committee approved S. 1329, which was substantially similar to what we have before us today. Unfortunately, problems with the House counterpart to that bill resulted in the Senate not taking further action in the last Congress, and so we've begun the process once again to augment State and Federal purchases of wetlands.

The acquisitions of these ecologically and economically valuable waters in adjacent lands is an essential component of our Nation's efforts to protect wetlands.

The present unsatisfactory implementation of the Federal Government's other principal mechanisms concerning wetlands, namely, section 404 of the Clean Water Act underscores the need to increase wetland protection by means of acquisition.

This year's record low numbers of some water fowl species is the harsh and urgent reminder that we can no longer afford to delay in bringing this increased wetland acquisition to fruition. Greater wetland protection is needed for many reasons other than the conservation of waterfowl. Wetlands enhance the quality of life for

every American by supporting a multibillion-dollar commercial and recreational fishery and shellfishery; by providing savings in natural flood and erosion control; and by helping supply the Nation's increasing demands for safe and pure water.

In all, wetlands contribute—and I don't know who came up with these figures, but it's nice, you can double them if you want—contribute \$20 to \$40 billion a year to the national economy.

Despite the value of marshes, bogs, and swamps, each and every one of us, we've allowed 60 percent of these areas in the contiguous States, that is the lower 48, to be destroyed.

From the mid-1950's to the mid-1970's, 11 million acres of wetlands were destroyed, more than a half a million acres each year for 20 years. Since the mid-1970's, the Office of Technology Assessment estimates the wetlands destruction has continued at the rate of 300,000 acres per year. In other words, you can say, "Well, why aren't we making progress?" Previously, we were destroying them at the rate of 500,000 acres a year, now we are only destroying them at the rate of 300,000 acres a year.

Well, that is probably because there are fewer left to destroy. To protect the most important wetland habitats for waterfowl against this tremendous rate of destruction, the Department of the Interior and the States determined, in 1959, that they needed to acquire an additional 3.8 million acres for the Federal Government, and 2.5 million acres for the States.

The sales of migratory bird hunting and conservation stamps and advanced appropriations against future duck stamp sales under the Wetlands Loan Act, let the U.S. Fish and Wildlife Service purchase, in fee, an easement, a little less than two million acres toward their goal in the years, about 19 years, from 1959 to 1977.

The remaining Federal share of 1.95 million wetland acres for conservation were to be acquired between 1977 and 1986, but as we enter fiscal year 1986, more than 1½ million acres still have not been purchased. In other words, we went out to buy 1.9 million and we have only acquired 400,000.

In 9 years, only a little over 20 percent of the remaining wetlands of the Federal objective have been achieved, and the States have lagged even further behind. Over the past 25 years, they have acquired less than half a million acres of their goal of 2.5 million, or a little less than 20 percent of the total.

Clearly, we need to do a better job of meeting State and Federal wetland acquisition needs. To do so, I believe we need the increased funding for Federal purchases and Federal support of State purchases provided under this act. This act provides money for Federal acquisitions but also provides incentive for the States to purchase land. We give grants to the States on a 3-to-1 ratio. Whether 75-25 is the right ratio, we hope to be enlightened on that subject in this hearing.

I hope we can go forward with this legislation without delay. I want to welcome the witnesses and welcome the distinguished member of this subcommittee, and a very able member of the full committee, Senator Symms from Idaho, who certainly knows something about wetlands, because his State has a lot of waterfowl, and I guess they have seen the effect of the decline of waterfowl.

Senator, we welcome you, and here is a chance to say something, if you like.

Senator SYMMS. Thank you very much, Senator. I am delighted to be here. I do not have a prepared opening statement, but I do look forward to hearing from the witnesses today and look forward to working with you on this subcommittee.

Senator CHAFEE. The first witness will be Mr. Walter Stieglitz, Deputy Director for Wildlife Resources, National Wildlife Refuge System, U.S. Fish and Wildlife Service. We welcome you here, Mr. Stieglitz.

Just so everybody will know, you won't have to ask, all statements will go into the record in full. You can then give us summaries of the statement. You can read your statements, if they are not too long. We will give everyone 5 minutes, and if there is something, we will go over it, if need be. But try to shoot for the 5 minutes.

STATEMENT OF WALTER O. STIEGLITZ, DEPUTY ASSOCIATE DIRECTOR FOR WILDLIFE RESOURCES, NATIONAL WILDLIFE REFUGE SYSTEM, U.S. FISH AND WILDLIFE SERVICE

Mr. STIEGLITZ. Thank you, Mr. Chairman, it is my pleasure to appear before the subcommittee this afternoon.

As you know, Mr. Chairman, this administration is dedicated to the protection and preservation of the great wetland resources of this country, and over the past few years, we have looked at new avenues and new ways of going about protecting our wetlands. We have a number of programs ongoing which are devoted to this specific purpose.

As you also know, this country is currently facing a number of severe problems relating to the budget deficit, and our position, relating to wetlands protection and preservation, must be related to the efforts to reduce this deficit.

We have several comments which I will highlight on S. 740, and they are as follows:

We support the concept of authorizing Federal wetlands acquisition by direct appropriation from the Land and Water Conservation Fund, in such amounts as may be necessary. We do feel that this authority should be constrained by budgetary concerns.

We also support the increase in the price of the duck stamp with the proceeds to be used for acquisition of new migratory waterfowl habitat. We would continue to use those monies, as proposed in the 1986 budget.

We support the extension of the authorization under the Wetlands Loan Act and have no objection to the forgiveness of advances from that Act.

We also support the concept of new wildlife refuge entrance fees. However, we would suggest that those fees might be more appropriately used to offset existing operations and maintenance deficits for existing refuges.

We oppose the proposal in the bill to establish a new wetlands conservation fund. We are also opposed to the establishment of a new State grant program for wetlands acquisition.

We oppose the earmarking of any specific amounts from the Land and Water Conservation Fund for wetlands acquisition, and the expansion of the annual LWCF authorization.

We are also opposed to the transfer of import duties on arms and ammunition to the Migratory Bird Conservation Fund. Further, we believe that the proposals in S. 740 authorizing new study and inventory authorizations and requirements to be unnecessary, as we are already embarked on such studies.

Your letter of invitation to the Department, Mr. Chairman, asked us to address two specific issues, one dealing with refuge revenue sharing, and the second dealing with a program we have ongoing in Minnesota called the Mid-Continent project. I might very briefly answer those two questions.

In relation to the Mid-Continent project, the Service has established a pilot program where acreage is leased from farmers for the purpose of enhancing habitat and improving waterfowl production on these acres. They are paid for on a yearly basis. Under this program, the service is acquiring the rights to restore wetlands and improve cover conditions.

We hope to find out to what degree this program can improve waterfowl production and I might add that the results so far have been very positive. It continues to be a pilot program, however.

With respect to refuge revenue sharing, the payments to the counties under this act are based on statutory formula and are derived from net revenues from the sale of products from Service lands.

If net revenues are insufficient to make full payments according to the formula, direct appropriations are authorized to make up the difference. Although it is true that these payments have not been made at the full level authorized, over the years, the administration and the Congress have provided approximately the same level of direct appropriations.

I would like to emphasize that we would like to continue to work with this subcommittee to develop wetlands legislation that will contribute to improving wetland conditions in this country.

This concludes my statement, and I would be happy to answer any questions the subcommittee might have.

Senator CHAFEE. Thank you, Mr. Stieglitz.

I must say that everybody from Secretary Watt onward has come and said that they are deeply concerned about wetlands, but then we get bogged down in what to do about it, and I can't see that an awful lot has been done about it.

Why are you opposed to the matching grants of the State or the incentives to the States. Frankly, it seems to me, you get a extra bang for your buck, if it's 75-25. It would not bother me if it was on a 50-50, so you are, therefore, doubling what you get for your money, and it seems to me that that is pretty good, and if we could entice the States into doing it more or could get the States to do it, and I think we could have supervision over it that the acquisitions would have to be lands that you folks approved of so that they would not be spending it on frivolous things. What is the matter with that proposal?

Mr. STIEGLITZ. I think the basic problem with that approach, Mr. Chairman, is the budget implication. There still would be outlays

required on the Federal side. I might add that some of the States on their own initiative have launched rather extensive land acquisition programs to protect wetlands. Florida and California are two examples that I can think of where they have rather extensive ongoing programs at the State level to protect wetland habitat.

Senator CHAFEE. What are you suggesting, that they are doing it anyway, so why bother giving them an incentive?

Mr. STIEGLITZ. Basically, it is a two-pronged answer, Mr. Chairman. One is the fact that they are doing some things on their own, and we would encourage an expansion of that sort of effort. And the other is the implication of the budget deficit.

Senator CHAFEE. One of the things we suggest here, shifting gears a bit, is the increase in the duck stamp. Very modest, I think it would go from \$7.50 to \$15 over how many years? Over 5 years. And it has been at \$7.50 for quite a while.

Mr. STIEGLITZ. The \$7.50 stamp went into effect in the 1979-80 season, Mr. Chairman.

Senator CHAFEE. 1979. So that is 6 years.

Senator SYMMS. Isn't it higher than that now?

Mr. STIEGLITZ. No, sir, it is \$7.50 now.

Senator CHAFEE. Why don't you increase it?

Mr. STIEGLITZ. Sir?

Senator CHAFEE. Why don't you increase it?

Mr. STIEGLITZ. Well, it requires new authorization, and we have no objection to the provision of the bill authorizing such an increase.

Senator CHAFEE. I think you would do more than have no objections. We want you as partners in this. We don't want to be dragging you along behind. Why don't you foster it, encourage it?

Mr. STIEGLITZ. Well, we do encourage it. We feel that a \$7.50 duck stamp is a real bargain for the waterfowl hunter and that the cost is relatively minimal compared to other hunting costs. A box of shotgun shells purchased today would cost you more than the duck stamp. So, we fully support the provision of the bill that calls for an increase.

Senator CHAFEE. What you would do is change what the revenue would be used for, that is what you are proposing? In other words, you say increase it, but have it used for maintenance rather than acquisition. At present it's all used for acquisition, isn't it?

Mr. STIEGLITZ. No, sir, we are not saying that. Any increase in receipts from duck stamp sales would be used for land acquisition under the auspices of Migratory Bird Conservation Commission.

We are suggesting that any entrance fees that might be charged should go toward reducing operations and maintenance deficits as opposed to being deposited in the migratory bird conservation account.

Senator CHAFEE. So, you are encouraging us, regardless of what we do with the proceeds, you are encouraging us to go ahead with the entrance fee?

Mr. STIEGLITZ. With some qualifiers, we would have no objection to the entrance fee provision.

Senator CHAFEE. What do you think of the idea, if we increase the price for the duck stamp, that that also could be used as an

admission. Somebody had a duck stamp, that would qualify as an admission fee to those refuges that charge admission.

Mr. STIEGLITZ. They could be used in that regard, sir. It has also been suggested that the Golden Eagle Passport could be used as in place of an entrance fee. Our position is that we would prefer that the entrance fee receipts be used for operations and maintenance, because we do have existing deficits in those areas right now.

Senator CHAFEE. I guess I'm zeroing in on the idea of permitting people to show their duck stamp and that would qualify as the admission fee to refuges that charge admission. Would you approve of that?

Mr. STIEGLITZ. If we approve that?

Senator CHAFEE. Would you approve of that, if we did it? We've got two "if's" in here. We'd increase the duck stamp fee, and we would institute charges at some refuges, not all refuges, because it doesn't make sense. There is not enough traffic to justify having somebody out there, but at some refuges you would start charging. That would be up to you folks.

The suggestion is that if somebody shows up to tour through a refuge and has a duck stamp in his wallet and can show it, that that would qualify as the ticket for admission. It would be a pass. What do you think of that?

Mr. STIEGLITZ. Well, obviously, if that is the will of the Congress, we would have no problem with that. I think the revenues that we are really talking about are the annual or daily visitation fees. They have been discussed also.

Senator CHAFEE. We would also have that.

Mr. STIEGLITZ. If the Congress decided that the duck stamp would qualify a carload of visitors for entrance, that would be fine. Our main concern is not over Golden Eagle Passport or duck stamp revenues, but rather new cash revenues resulting from entrance fees charged to other individuals who only wanted to visit a refuge for a day. Those revenues would have to go into some depository, and we are suggesting those should be used for operation and maintenance.

Senator CHAFEE. The reason I am asking you this particular question is that we have had some objections to the fact that a duck stamp would qualify as an admission pass. I am not sure that I can follow the rationale. What was the rationale? Were you here?

The rationale, somehow, was that it was a user fee, and that, therefore, a duck stamp should not be used as a admission ticket because that translates into a user fee. I got lost. That didn't bother you, though?

Mr. STIEGLITZ. Is it perhaps, Mr. Chairman, because some people are concerned that, in effect, many of our refuges have been acquired with migratory bird conservation fund money and have theoretically been paid for by the duck hunters who have purchased these stamps and therefore, requiring a duck stamp and an entrance fee on the part of those people might, in effect, be a double charge?

Senator CHAFEE. It would not be a double charge, because that, I think, would be a clear case that it would not be a double charge. You would have the fee and you would have the stamp, so, therefore, you don't have to pay the fee.

Well, I won't pursue it.

Senator Symms.

Senator SYMMS. On this duck stamp, Mr. Director have you ever run a study of how many of the people who buy duck stamps are really just casual duck hunters, that primarily they are upland game and duck hunters, so they buy a duck stamp just in case they have the opportunity to take a duck, but they won't buy it if the price gets up too high?

Mr. STIEGLITZ. Well, let me try and answer that this way: We do know that a segment of the American public buys duck stamps with no intention of hunting at all. They just buy duck stamps because they are stamp collectors or because they want to do something for waterfowl and don't hunt at all. I don't recall what that number is, but I think we have an approximation of that.

I think the other part of your question is what happens with the sales if we increase the price, is that correct?

Senator SYMMS. Right.

Mr. STIEGLITZ. I think, at this point in time, two things could well impact future sales of duck stamps. As you know, we have imposed more restrictive waterfowl hunting regulations this hunting season. Those restrictions could impact sales for the 1986-87 hunting season. It is very difficult to project.

I think, historically, when the price of duck stamps has gone up, a temporary drop in sales may have occurred. Again, it is difficult to predict. If I had to guess, and this is purely my own opinion, if we go to a \$10 duck stamp and there are no other influences, such as restrictive hunting regulations, you would not see that much of a decrease in sales, simply because \$2.50 to the individual who hunts waterfowl is not a very big-ticket item.

Senator SYMMS. I would tend to agree that going to \$10 wouldn't cause much of a dropoff, but, psychologically, if you got to \$15, there might be some. I don't know. Do you have the authority to raise it to \$10 now?

Mr. STIEGLITZ. I believe we need that authority.

Senator SYMMS. Maybe I didn't understand it. I thought you had the authority. Is that right, Senator Chafee?

Senator CHAFEE. They have to get it from us.

Senator SYMMS. They don't have the authority now to raise it? I thought they had the authority to raise it. OK, well, I'm incorrect on that.

The other question I had is, are there any cases that you are familiar with where somebody is planning to start a farm or build a building which affects a wetland, but they say, "If you will allow us to build a building, we will go develop a wetland somewhere else." Have you been doing any of that?

Mr. STIEGLITZ. That sort of activity is most frequently carried out in the form of mitigation for water resource development projects. On some occasions, wetlands are lost due to development and part of the mitigation for that project is restoration or development of similar wetlands in other areas. That mitigation is normally done by the developing agencies under recommendations developed jointly with Fish and Wildlife.

Senator SYMMS. How about private developers?

Mr. STIEGLITZ. In some cases, the mitigation is done by private developers, for instance, mitigation associated with 404 permits. Yes, some of that is being done.

Senator SYMMS. Is that flexible?

Mr. STIEGLITZ. Yes, sir.

Senator SYMMS. Thank you very much, Mr. Chairman.

Senator CHAFEE. Mr. Stieglitz, tell me about this North American waterfowl plan, but first let me go back.

The number of waterfowl is at the lowest level in 30 years this past year; is that correct?

Mr. STIEGLITZ. Yes, sir.

Senator CHAFEE. To what do you attribute that? Do you think that the loss of habitat wetlands has been a factor?

Mr. STIEGLITZ. There is no question that habitat loss has been a factor. I believe that a number of factors have probably contributed to the rather dramatic decrease in waterfowl population that we have experienced this year.

The permanent loss of wetlands and breeding habitat is certainly a major part of that, but I would also add that I think other factors are influencing populations, like this year's climatic conditions. Diseases of waterfowl are a known mortality factor. Hunting mortality itself is a factor, plus there are unknown factors that are impacting on the populations that are perhaps not as well understood. My view is that a number of factors with habitat loss being probably the major one have all contributed to this year's decline.

Senator CHAFEE. It is a very peculiar thing, but waterfowl need water, including wetlands, I suppose. We better do something about it, then.

The North American Waterfowl plan, which I understand you folks and Canada have just about concluded; is that right?

Mr. STIEGLITZ. Well, the first draft is essentially finished, Mr. Chairman.

Senator CHAFEE. It is my understanding that that plan provides for the United States to make a contribution of \$65 million a year over the next 15 years?

Mr. STIEGLITZ. Those are basically the numbers that appear in the plan, yes, sir.

Senator CHAFEE. How do you suggest getting that?

Mr. STIEGLITZ. That is going to be a very tough proposition, obviously, because of the large numbers involved. What the draft plan basically does is provide for a joint effort with the Canadians, the States, and other organizations to determine what the real needs of the waterfowl resources will be up to the year 2000.

The plan deals not only with habitat needs, but also addresses surveys and censuses, harvest control, population studies, and a number of other things that relate to waterfowl population ecology.

The proposal calls for substantial habitat protection efforts in both Canada and the continental United States. It is really a basic approach to determining what we need and attempts to estimate the amount necessary to carry out the program. We know that the cost of the effort must be shared among Canada, the United States, and others.

Senator CHAFEE. No, I think this is just the U.S. share, isn't it?

Mr. STIEGLITZ. Yes.

Senator CHAFEE. My understanding, this is just the U.S. share, the \$65 million a year for 15 years.

Mr. STIEGLITZ. That is correct, but the total costs of the plan would be shared with Canada. It is an area that requires some innovative funding and maybe some new approaches to coming up with dollars. That part of the plan is really yet to be finished.

Senator CHAFEE. We have given you some opportunities right here, though. Innovative funding.

Mr. STIEGLITZ. Yes, sir; you have.

Senator CHAFEE. But you don't seem to be grabbing it.

Mr. STIEGLITZ. Well, the reason we are not grabbing at it, frankly, is because of the concern about budget deficits.

Senator CHAFEE. But this picks up new money. I mean the increase in duck stamp, the increase in the start of admission fees. It gives you money you don't have now.

Mr. STIEGLITZ. That is correct, sir. The increase in duck stamp proceeds obviously would go toward this purpose. The use of land and water conservation funds for wetlands acquisition would contribute also. You are entirely correct. We would suggest, though, in view of the need to keep spending down that it might be better to defer, at least over the short term, the increased authorization of LWCF funds for this purpose.

Senator CHAFEE. Let me ask you: How many wildlife refuges are there in the system?

Mr. STIEGLITZ. 431.

Senator CHAFEE. And how many of those do you think would lend themselves to charging for them?

Mr. STIEGLITZ. To charging?

Senator CHAFEE. Yes. I know this is off the top of your head.

Mr. STIEGLITZ. Right. As you know, we don't have a firm proposal developed on this. My answer would be a very limited number, Mr. Chairman, and the reason being I think a certain criteria would have to be met before charging entrance fees.

One of the biggest problem's with refuges, and I think you are familiar with it, is the mechanics of collecting and enforcing fee collection. Multientrance refuges would be very difficult to collect fees on.

I think if I were to give you a rough number, I would say somewhere between 25 and 30.

Senator CHAFEE. You think that is all? But I suspect 25 or 30 would probably encompass 60 percent of the total visits of the public of all the refuges, don't you think?

Mr. STIEGLITZ. It would be a high percentage, Mr. Chairman. Obviously, visitation is another criterion. We would be looking at those refuges with 700,000 to 1 million a year.

Senator CHAFEE. Do you have many of those? Down in Florida, I suppose.

Mr. STIEGLITZ. When I say 25 to 30, some of those would have less than 500,000 visitors. While I am not suggesting Merritt Island would qualify, it does have over 1 million yearly visitors, Loxahatchee in Florida, which you are familiar with, probably has about 400,000 visitors and it probably would fit the criteria. Chinco-teague, which you are probably familiar with, would fit the criteria.

Senator CHAFEE. OK, fine.

Thank you very much, Mr. Stieglitz, for coming.

Mr. STIEGLITZ. Thank you very much, Mr. Chairman, it has been my pleasure.

Senator CHAFEE. All right, I have a panel. Mr. Lonnie Williamson, secretary, Wildlife Management Institute; Mr. Barry Tindall, director of public affairs, National Recreation & Park Association; and Mr. Wes Hayden, International Association of Fish & Wildlife.

Why don't you folks come up and we will start with Mr. Williamson.

STATEMENT OF LONNIE L. WILLIAMSON, SECRETARY, WILDLIFE MANAGEMENT INSTITUTE

Mr. WILLIAMSON. Thank you, Mr. Chairman.

I am Lonnie Williamson, secretary of the Wildlife Management Institute. We endorse all the provisions in S. 740. We realize that the refuge entry fee provision may draw some objection, but we believe that such a fee is reasonable and appropriate to raise a few more dollars for wetlands.

According to our discussions with the Fish and Wildlife Service early on, during the POWDR days of getting this legislation on track, they said that only about a dozen or so refuges would lend themselves to entry fee programs. These areas were those with limited access and population centers nearby that have very high visitor use, and are used for a variety of recreational purposes.

We think there is a history of public land facility users paying fees additional to the general revenue supplied by all taxpayers for the management of those lands. Of course, enforcement through the duck stamp helped with the refuge acquisition program. Likewise, those who purchased the golden eagle passports are adding additional revenue.

Thus, it seems that others that actually enjoy the refuges contribute a little something extra where feasible, and we think this entry fee idea would help in that regard.

The idea behind the entry fee is the same as that which supports the use of land and water conservation fund receipts, in our view, and that is to get the broadest possible participation in providing extra funds. And, after all, the wetlands are valuable far beyond their benefits to hunting and to other outdoor recreation, as the findings in this bill clearly state.

As far as the mechanisms for allocating the funds to the State under title III, we think they're proper. The language would direct 50 percent of the investments to the States.

Senator CHAFEE. Did you say 50?

Mr. WILLIAMSON. Yes; \$50 million of the 75 to the States with active wetland protection programs and, in general, these are the States where wetland loss is most critical. Furthermore, the title would obligate the remaining \$25 million to States that would agree to acquire and enhance wetlands of national significance, as determined by the Interior Secretary.

Also, we think the 3 to 1 Federal-State matching requirement would allow the scarce State funds to go further. We believe you would get much better participation from that, rather than a 50-

50, which is now, for example, under the land and water conservation fund.

All considered, we think that the fund allocation mechanisms in S. 740 are very practical in that they focus on protecting priority areas, and encourage vigorous State participation.

Mr. Chairman, we recommend that the committee consider a few minor changes in the bill. First, we suggest that language be included to redirect the import duties on arms and ammunitions from wetland acquisition to the Federal Aid and Wildlife Restoration Program after the emergency 10-year period of this bill has expired. Similar duties on fishing equipment were so dispatched in the Wallop-Breaux Act last year. In our view, this would be an excellent way to get more of the special taxes paid by sportsmen into needed wildlife conservation work.

Second, we encourage the subcommittee to consider the language that was suggested in a letter that was sent to the chairman on October 31. These recommendations were developed to overcome some apprehensions expressed by the National Cattlemen's Association, and some of its affiliates. The cattlemen's concerns, as we understand them, were that the bill may infringe upon private property rights, promote unlimited acquisition of private lands, or sanction national land use planning. Although we do not share those worries with respect to this legislation, we have no objection to the misunderstanding being alleviated as recommended in that letter.

Thank you very much.

Senator CHAFEE. Well, thank you very much, Mr. Williamson.
Mr. Tindall.

STATEMENT OF BARRY TINDALL, DIRECTOR, PUBLIC AFFAIRS, NATIONAL RECREATION & PARK ASSOCIATION

Mr. TINDALL. My name is Barry Tindall. I am the director of public affairs for National Recreation & Park Association. Our executive director, John Davis, had expected to be here to speak this afternoon. Unfortunately, he had a conflict that he could not avoid.

I want to state for the record that I am representing the association today and not any other organization with which I may be affiliated.

The association supports the objectives of S. 740. We have worked with staff over the last couple years on this legislation, both on the House side and the Senate side. I think, and the association believes, that this Nation must take specific actions to protect and enhance what is obviously becoming a very fragile and increasingly scarce resource.

While we support this legislation and this particular fund that would be created through the legislation, I do want to note for the record that my organization has recommended to the President's Commission on Americans Outdoors and other committees of this Congress, as other individuals and organizations have done, that we very soon move from the land and water conservation fund, as we know it today, that is an annual appropriations process, to, in fact, a true trust fund where at least some plateau of funding can

be established to aid wetlands and many other types of conservation activities.

We do expect this proposal to receive serious consideration. We note in the legislation and in the history getting to this particular proposal, that there are various definitions of wetlands and various estimated levels of loss. Thus, we suggest that the legislation focus mostly on those protection activities that are not man-induced, if you will, but we have other statutes that ought to be able to control loss of wetlands through dredging, fill, and what have you, so we think this legislation ought to focus on natural wetlands rather than other types of wetlands activities.

We have looked at this legislation from the perspective that a separate account will have on broader land and water conservation fund funding activities, and I reference this, we reference this, at the bottom, pages 3 and 4. Frankly, the Congress as a whole has been faced with very difficult fiscal decisions, and, unfortunately, land and water conservation fund has not fared that well in the context of these decisions.

State assistance, for example, was dropped from about \$72 million in fiscal 1985 to about—less than \$50 million under the fiscal 1986 proposal, which I don't believe Congress has finally acted on at this point.

How the Congress deals with these separate, but related, appropriations in the future, of course, is a challenge for all of us to deal with.

I might note, as we do on page 4, that State fish and game, and U.S. Fish and Wildlife Service, and associate agencies are all presently eligible to participate and do participate in the Land and Water Conservation Fund Act. Regarding the funding ratio, we happen to think that a 50-50 ratio makes more sense fiscally, and, in fact, is likely to result in the protection of additional wetlands.

No State, to our knowledge, has ever failed to match the 50-50 ratio presently required in land and water conservation fund. We think they will put up the money if it is in the context of land or water, and, thus, more wetlands will be, in fact, protected.

We have some other specific recommendations. We think the planning activities in S. 740, State planning activities particularly in the land and water conservation fund. Specifically, we also think that the statewide comprehensive outdoor recreation plan now required to participate in the land and water conservation fund be considered as an eligible planning document of planning device, especially if it has significant reference to wetlands or if an appendix to that plan specifically addresses wetlands.

We believe that the bill should incorporate the protection and perpetuity feature that is presently in land and water conservation fund. I mentioned the matching ratio on pages 5 and 6. I won't go into that again.

We think that the planning activities, the funding activities proposed in this legislation, frankly, should not distort ongoing planning activities and budgetary decisions at the State and local government levels.

I think it was my organization that you were groping for when you referenced different points of view on whether the migratory bird stamp or duck stamp ought to be commingled, if you will, with

the golden eagle pass. We think that the principal objective in users of the so-called duck stamp ought to be kept essentially as they are today. That, for all practical purposes, is a use permit to hunt and consume water fowl, and I think that the records will show that mostly it is the active waterfowl hunter who purchases those stamps. A very few stamp collectors do, but there are some, of course, that purchase that.

It may be an attractive proposal today to allow a special group of recreationists into a Federal fee area if they have, in fact, purchased a separate document. One of the proposals, however, in this country is to tax recreation equipment and services more broadly, and I think that we only dimly understand whether the owner of an off-road recreation vehicle happens to pay a Federal excise tax, that the purchase of that vehicle may not very soon thereafter demand free access to the national parks and certain forest recreation areas, and maybe the refuges themselves.

So, we offer extreme caution regarding a comingling of what is, in effect, an entrance fee versus a use and consumption fee.

Senator CHAFFEE. That goes right over my head. I just don't get the problem. It seems to me we are giving you something extra. It may violate what you believe to be the security of the duck stamp, but I don't see why you resist. In other words, you have paid for a duck stamp to go hunting. I think that a lot of people just buy the duck stamp because they know that the proceeds go to the acquisition of wetlands. They like the drawings. They like to be part of it all, although they never go out and hunt a duck.

What we are suggesting is that since you have bought a stamp, this would permit you to go to a wildlife refuge that happened to charge and there you would show your duck stamp. That would be an encouragement for more people to go out and buy duck stamps to continue this habit of supporting the acquisitions of wetlands, but not necessarily hunting.

Could you slowly explain what the problem with that is?

Mr. TINDALL. Well, you asked the Fish and Wildlife Service representative to give you an estimate of how many nonhunters, in fact, purchase wetlands stamps, let's start there—waterfowl stamps. Our understanding of that situation is that it is a very low number of people. In other words, it is not fiscally significant in the wetlands protection scheme.

We would argue that the National Government would generate additional revenues from waterfowl hunters and other users of refuges if they clearly have an entrance fee. Credit it to the Fish and Wildlife Service. We have no problems whatsoever with diverting those fees from Land and Water Conservation Fund to the wetlands account. I say we have no problems with it. We would accept that.

If you need a duck stamp to hunt ducks on a private cornfield, which you do need if you are 16 years of age or older in this country, then why not charge the waterfowl hunter who happens to select a particular refuge for his or her hunting experience, charge them the daily entrance rate, the regular admission rate, and that is additional revenues that would accrue to the U.S. Fish and Wildlife Service or migratory bird account or the U.S. Wetlands Fund? I think most of the duck hunting, frankly, sir, occurs on nonrefuge

lands. Maybe the Fish and Wildlife Service has some statistics on that, but I think we are really talking about a very fine line in terms of additional resources, as you suggest, or under our interpretation, you would, in fact, diminish the resources that you would be taking in. And we do not know—I mean there has been proposals in previous Congresses, and there will be proposals in future Congresses to assess excise taxes on a wide range of recreation goods and services. There are already some, obviously, on fishing and hunting, some fishing and some hunting equipment. We just think that little is known at this point as to how the—one, what the Congress might do or what the States might do in terms of additional revenue programs. What they might tax or not tax. And what the purchasers of those goods and services, how they might react.

Senator CHAFEE. I guess the confusion is that when I was talking admission, I wasn't talking admission of the hunter on a refuge. I was talking just the public strolling through. Maybe that is where the confusion comes from.

In certain parts of certain refuges, you can hunt duck; correct?

Mr. TINDALL. Correct.

Senator CHAFEE. Currently when you do that, isn't the Federal duck stamp you previously purchased sufficient?

Mr. TINDALL. That's correct. It is required if you are 16 years of age or older.

Senator CHAFEE. What I was talking about was charging the person who wants to walk through some refuge as an observer, not a hunter. That is the charge we were talking about. Is there any confusion about that? Was that understood? When you are talking about admission charges to the refuges, it isn't the hunters, it was for anybody who just wants to walk through; is that clear?

Mr. TINDALL. I believe I understand what you are referring to. We have some reservations, but we have no real concern if the Congress decides to establish an entrance fee program for the National Wildlife Refuge System, fine. Let's make it consistent for all users of that refuge. If they happen to go in for photography, fine. If they happen to go in to observe wildlife in a nonconsumptive form, fine. If they happen to go in there for the purpose of taking waterfowl, then they should pay the—either an annual, if they want to buy a Golden Eagle, for example, or a daily entrance fee and have in their possession at the same time a duck stamp.

Senator CHAFEE. Well, that gives more revenue.

Mr. TINDALL. That is what we are arguing, yes, sir.

Senator CHAFEE. Well, that isn't what has been argued here before. It all gets tangled into whether it is a use fee—what is the other term they use?

Mr. TINDALL. Use fee versus an entrance fee. That's the second set of arguments that we make, and we, like we suggest, think that maybe the Congress and others do not know enough about how the public will react to that because we are speculating, if you will, that certain excise taxes may be levied. We suspect that there may be a proposal to do that. There have in the past been so-called trust fund proposals that have levied excise taxes on equipment and services.

Senator CHAFEE. It is too subtle for me to grasp. Let's get going here.

Mr. TINDALL. We would suggest that that issue be set aside in the context of this bill.

Senator CHAFEE. If it causes all of this confusion, I am delighted to set it aside.

I thought that we were giving you a break. I thought that somebody who had gone and bought a duck stamp, who is a big hunter in Idaho or Montana, and then subsequently goes down to Florida for a little vacation, and he goes and walks through a refuge with his wife, it would be nice to whip out his duck stamp and be able to gain admission.

He is paying \$15 for his duck stamp, and the duck stamp has helped to acquire this refuge, so maybe he should get a little return. But, if you don't like it, that is fine with me.

Mr. TINDALL. We think that it is a subject that clearly requires a harder look, perhaps.

Let me conclude, Mr. Chairman, by referencing section 2(b) of the legislation, which goes all the way back to the purposes section.

Clearly the legislation is designed and the intent is to attract the participation by the States and local governments, all of those organizations, all of those entities that have the potential of protecting wetlands through their planning activities, through their acquisition activities. However, we are not sure that the legislation provides for a participatory role in the revenues here or in the receipts here for sub-State or local units of government.

We strongly recommend that that be clarified. We have some language that we have suggested to staff in that regard.

Senator CHAFEE. In other words, if the States, or the locals, or whoever it is, are putting up the matching share, they should have a say in how the money is spent.

Mr. TINDALL. Most of the land use decisions in this country are made at the county level and below it, the greatest number of them. The town of this, or the county of that, allows a development to occur. We think that there should be some financial incentive for those entities to do right by wetlands.

Presently, the practice has been to funnel the money to State fish and game agencies, or associated entities, and leave it at that. We think that we will protect additional wetlands, we will make additional governments sensitive to the wetlands loss problem if we provide an incentive for them to plan and protect wetlands. It is an identical provision to that now included in the land and water conservation fund.

Local government participation would be consistent with State wetlands planning activities. It is an extremely simple administrative mechanism to implement. It would be identical to the State and local government management and participation in the Land and Water Conservation Fund Act that we have had since 1965.

Senator CHAFEE. It seems to make sense to me. You say that you have submitted some language on that?

Mr. TINDALL. There is another part of our testimony where we talk about program administration, and we would simply encourage you to have a look at that.

Senator CHAFEE. All right, fine.

Mr. Hayden.

STATEMENT OF WES HAYDEN, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES, ON BEHALF OF ROBERT M. BRANTLY, EXECUTIVE DIRECTOR, FLORIDA GAME AND FRESH WATER FISH COMMISSION

Mr. HAYDEN. Mr. Chairman, as you have been advised, Mr. Brantly became ill en route to the airport this morning.

Senator CHAFEE. I was sorry to hear about that and I hope that he is all right.

Mr. HAYDEN. I think that it is nothing at all serious, simply a temporary digestive upset or something of that order.

Senator CHAFEE. We are delighted to have you here. You are a veteran before this subcommittee.

Mr. HAYDEN. Thank you, Mr. Chairman. It is always a pleasure.

I would start off, Mr. Chairman, by saying that we completely agree with the concern that you expressed in your opening statement when you delineated the degree of wetlands loss over the past 20 or 30 years. The record will show that the International Association of Fish and Wildlife Agencies has consistently supported all of the efforts which we felt had any reasonable prospect for helping to slow down this loss rate, or perhaps even eliminate it entirely to at least maintain the status quo. That, unfortunately, as you so well know, has not happened.

We feel that additional measures are necessary now to help make it happen. I won't go back over the loss figures that you mentioned because they are very clear, and the record already sustains them. I think that it is important to note for this hearing, however, what is happening in Mr. Brantly's own State, because the loss has been greater there than the national average.

Between 1906 and 1973, almost 60 percent of the State's wetlands were lost, over 11.5 million of the existing 19.8 million acres, and the losses continue. Between 1953 and 1973, 1.5 million acres were lost, an average of 75,000 acres annually. A study in Palm Beach County found that between 1973 and 1980, 24,400 acres of wetlands were lost in that county alone. Those are distressing, disturbing, and dramatic figures.

Senator CHAFEE. There is no question about that.

Everybody always agrees with the problem. The difficulty is, we then squabble over the solution. Meanwhile more wetlands are lost.

Mr. HAYDEN. Precisely, and that is the point. If I say nothing more today that is of any importance to the hearing record, I would simply stress that the time has come when, not only the rate of wetlands loss must be slowed down, but at some point, before it gets any lower, there has to be something done to reverse that trend and begin building back up.

Much has been said today about the economic impact of this program. Let me turn to another aspect of that.

We think generally, in terms of wetlands as a nesting habitat for migratory waterfowl. Too often we lose sight of the fact that rivers, swamps, marshes, and bayheads store upland runoff, accommodate flood waters, maintain the flow of rivers and streams, recharge ground water. They also assist in the maintaining of water quality

by trapping sediments and debris and assimilating nutrients before they reach open bodies of water.

Wetlands frequently serve as buffers, protecting land areas from erosion, wave action, and storm forces. How much value, Mr. Chairman, do we place upon that aspect of the resource? What is the value of wetlands from that standpoint? I don't think that we have to go much further than last week's newspapers to get at least a partial answer to that problem.

Senator CHAFEE. Mr. Hayden, I agree with everything you have said, and I think that it is terribly important to stress the point that you have made. Normally we get up here and we talk about the loss of wildlife habitat when we lose the wetlands. As you point out, there is a score of other reasons that wetlands are extremely important, particularly in connection with the runoff, and the reserve areas for flooding.

Let's come to this legislation. What are your views on this? I have Colonel Brantly's statement, and he agrees with the allotment from the land and water conservation. What about you, what are your views on the matching fund for the States?

Mr. HAYDEN. Mr. Chairman, we agree with his position as far as that statement is outlined. He is speaking not only for the State of Florida, but he is speaking for the international association. That would have been the thrust of his testimony.

Mr. CHAFEE. I am not sure that he addressed the percentage.

Mr. HAYDEN. We did not address the specific percentage. We, obviously would favor the 75/25 if it is attainable, but we are not locked into concrete on that. If it is necessary to revise that figure to some degree, I think we would certainly consider it.

Senator CHAFEE. Do you think that we can get the response from the States if we went 50/50? States or local governments, as Mr. Tindall said.

Mr. HAYDEN. We could certainly determine rather quickly what their attitude might be, I believe. Perhaps something halfway between, maybe 66/33, if that were to be the only way of getting a bill.

Senator CHAFEE. That is a thought. I, personally, feel that 75/25 is a little high.

Mr. HAYDEN. Basically we do agree, as an organization, with the approach that you have outlined in S. 740.

Senator CHAFEE. The increase in the duck stamp, do you agree with that?

Mr. HAYDEN. Yes, sir, absolutely.

Senator CHAFEE. Maybe we went too low.

Mr. HAYDEN. Certainly not until we forget about this business of imposing an additional fee on the holders of the duck stamp for entry to wildlife refuges.

I wasn't going to say anything about that, but since you raised the point, I agree with your position that if they helped to pay for it, the duck hunter or the buyer of a duck stamp has the right to share in the enjoyment of refuges without an additional fee.

Senator CHAFEE. Let's not start over that again.

Mr. HAYDEN. I am not.

Senator CHAFEE. You and Mr. Tindall can discuss that.

Mr. HAYDEN. It is possible that we may.

Senator CHAFEE. There is a conflict in there in some way, but I haven't figured it out.

Mr. HAYDEN. Basically, we regard the sources of revenue that you have laid out as not only the essential, but the least that can be done to really mount an adequate program to slow this wetlands loss down, to reverse the trend, and to protect the values of wetlands as a whole.

Senator CHAFEE. Thank you very much, Mr. Hayden. I appreciate your coming in, particularly filling in at the last moment for Colonel Brantly. It was good of you to do that.

Mr. HAYDEN. I was happy to do it, sir.

Senator CHAFEE. Thank you all, gentlemen. You are always helpful. We have seen Mr. Williamson here many times. Mr. Tindall, we welcome you.

The next panel, W. Alan Wentz, fisheries and wildlife division of the National Wildlife Federation; Mr. James Shepard, special assistant to the executive vice president, Ducks Unlimited; and Ms. Hope Babcock, deputy counsel and director, Public Lands and Waters Program, the National Audubon Society.

We welcome you all here. Dr. Wentz, why don't you go ahead.

STATEMENT OF W. ALAN WENTZ, FISHERIES AND WILDLIFE DIVISION, NATIONAL WILDLIFE FEDERATION

Mr. WENTZ. Thank you, Mr. Chairman.

I really appreciate this opportunity to discuss the needs for wetlands conservation and to provide our comments on S. 740.

We have consistently recommended expanding funding for wetlands purchases through: One, extension of the Wetlands Loan Act and deletion of the provision that provides for repayment of the advance.

Two, a gradual increase in the price of the duck stamp to \$15 over a 5-year period or longer. Three, continuing annual appropriations from the Land and Water Conservation Fund for State and Federal acquisitions over a 10-year period. Four, authorization for the Secretary of Interior to require a duck stamp, or a single visit fee for entrance into designated units of the National Wildlife Refuge System; and five the transfer of duties collected on imported arms and ammunition.

S. 740 does largely incorporate the proposals to increase funding for State wetlands acquisitions that are outlined above, and we enthusiastically support those provisions of the bill.

Specifically, the National Wildlife Federation supports the expansion of the Migratory Bird Conservation Fund for Federal wetlands acquisitions by collecting refuge entry fees and increasing the price of the duck stamp. These provisions are estimated to produce \$140 million in new revenues over a 10-year period.

We believe it is desirable to broaden the pace—

Senator CHAFEE. Do you think the Federal Government or the Congress should be in the business of setting the price of the duck stamp to start with?

Mr. WENTZ. Historically, that has been the way it has been done, Mr. Chairman.

Senator CHAFEE. That wasn't the question. The question is, do you think we ought to be in the business of setting the price of a duck stamp?

Mr. WENTZ. I think that it is probably appropriate, yes.

Senator CHAFEE. All right.

Mr. WENTZ. We believe it is desirable that we broaden the base of those paying for refuge and wetlands acquisition beyond America's waterfowl hunters who are the primary purchasers of the duck stamp. Requiring a duck stamp or a reasonably priced single visit fee for entry into a refuge is, in our opinion, an equitable means of broadening support for acquisition and to raise revenues.

S. 740 would transfer \$75 million a year for 10 years from the Land and Water Conservation Fund to a newly established Wetlands Conservation Fund for Federal Wetlands Acquisition, and Federal support for State efforts to acquire, enhance, and preserve wetlands. Of the amount actually appropriated from the Wetlands Fund each year, a maximum of two-thirds would be made available to the States to provide up to 75 percent of the costs of federally approved wetlands conservation projects.

The federation supports the apportionment process which makes one-half of the funding available to the States each year according to a priority system to be developed by the Secretary of the Interior. The remaining half of the State share of appropriated funds is allocated according to a State's previous commitment of funds to wetlands conservation projects.

The federation supports the Federal and State wetlands conservation program with a number of important caveats, most important the mere authorization of annual appropriations up to \$75 million over 10 years will not result in acquisition or protection of a single acre of wetlands unless Congress makes the full authorized amount available each year over the next decade.

It is no accident that the most successful Federal and State program to protect wetlands and other wildlife habitat are the duck stamp and the Federal Aid in Wildlife and Sport Fish Restoration Programs. These programs all have one important common denominator—they all have been funded through continuing annual appropriation provisions that have ensured that moneys collected each year are actually spent for the purposes of those programs.

Senator CHAFEE. Does that have to go through an appropriation?

Mr. WENTZ. It does, Mr. Chairman.

Senator CHAFEE. Those funds?

Mr. WENTZ. It does go through appropriation, but the amount is set. It is not changed.

Senator CHAFEE. It is 100 percent of what comes in.

Mr. WENTZ. That is correct.

If this program is to be successful, we believe, past experience with a number of programs shows that this funding should be automatically available in a predictable manner.

S. 740 also should be amended to change the definition of wetlands acquisition to: One, clarify that leases or easements must be obtained in perpetuity; and two, limit the amount the States can spend on administrative expenses to acquire wetlands.

Finally, two other points need to be made with regard to title III. First, the federation supports the use of Wetlands Conservation

Fund money for enhancement and preservation projects, provided that those projects serve to increase the acreage and/or quality of naturally functioning wetlands under State or Federal protection. Second, the Federation supports the title III cost-sharing formula of 25 percent State funds and 75 percent Federal Wetlands Conservation Fund moneys. This matching formula is the same as that provided under the PR and DJ programs, and under the Endangered Species Act.

The strong Federal contribution is warranted, we believe, because wetlands are a nationally significant resource that, regardless of their location, provide services and products for all Americans.

Senator CHAFEE. You think that if it were less than that, you wouldn't get the States to respond?

Mr. WENTZ. I think there are some States that would find it very difficult to respond if it were brought back to a 50/50 match for wetlands acquisition. In other States, it would be very possible because of local authorities, but in general, I think a lot of States where we have wetland problems, the 75/25 match will make it more feasible for them to participate.

Senator CHAFEE. What do you think of Mr. Tindall's suggestion that somehow we get it down to the lower entities because that is where your building permits come from, and that is where your zoning is done, that is where the recognition of actions that are taken that might destroy wetlands. Get it down to those entities, and perhaps they will behave in a better fashion, make greater efforts to save wetlands.

Mr. WENTZ. I think that that would work very well in some localities, and I think that it would be perfectly appropriate for local county governments, villages, towns, or whatever to do that in many areas. However, in many States, that authority rests primarily in the State wildlife agency or some other State agency, and I think that they are the ones most likely, nationwide, to be the primary participants.

Senator CHAFEE. Your time is about up, so why don't you finish up.

Mr. WENTZ. Over 50 years ago, discussions very much like the ones we are engaged in today were held. The topics were very much the same, and the needs were defined in much the same manner. Even the solutions that were proposed were similar.

One thing that is different today is that we have 50 percent fewer wetland acres to worry about. If decisive and effective action is not taken soon, the need to hold discussions, pondering methods to preserve wetlands, will no longer exist because our wetlands will be gone.

If, on the other hand, we are able to combine an effective program of State and Federal acquisition, with a strong regulatory program and an attractive tax incentive package, we will be able to ensure that future generations of Americans will continue to derive the many benefits that are provided by wetlands.

Thank you, sir.

Senator CHAFEE. Thank you very much.

Now, Mr. Shepard.

**STATEMENT OF JAMES M. SHEPARD, SPECIAL ASSISTANT TO THE
EXECUTIVE VICE PRESIDENT, DUCKS UNLIMITED, INC.**

Mr. SHEPARD. Mr. Chairman, I am James Shepard, special assistant to the executive vice president of Ducks Unlimited. I am pleased to be here today and offer our comments in support of S. 740, the Emergency Wetlands Resource Act.

This bill, to the best of my knowledge, is a result of the efforts of the old POWDR committee, or the POWDR task force, on which Ducks Unlimited volunteers and staff were pleased to serve with many, including you, Mr. Chairman. As such, the bill addresses in a positive fashion our most critical need affecting waterfowl resources in North America—the loss and destruction of wetlands.

As you are undoubtedly aware, Ducks Unlimited has been in existence for almost 50 years and throughout that time has had the single purpose of preserving, maintaining, and developing wetlands for North America's wild ducks and geese.

As the bill so clearly recognizes, these wetlands are important not only for waterfowl, but also for hundreds of other species of migratory and resident fish and wildlife, including migratory birds, endangered species, fin fish, shellfish, and other organisms.

Senator CHAFEE. Why don't you skip to the specifics. I am not denigrating anything you say, you know how important I feel these are, but they have been covered to some degree.

Mr. SHEPARD. I appreciate that, Mr. Chairman, because I think that you may see some similarities between the work that we have been carrying on and the work of your bill.

Senator CHAFEE. Sure.

Mr. SHEPARD. If I may refer back. During the period of existence of Ducks Unlimited, we have raised over \$300 million for waterfowl and other related wetlands work and species in North America.

Just to touch on the size or the magnitude of the program, most of our work was done early on in Canada where we have 3.5 million acres of wetlands under reservation and have developed about 2.75 million of these acres.

Additionally, we have developed nearly a quarter of a million acres in Mexico, and we just recently began to undertake the same kinds of programs in the United States.

Then, Mr. Chairman, a point that may be of great interest to you is the fact that we have just entered into a cooperative program with the State fish and game departments to work on wetlands in their States. We have appropriated \$3.5 million this year. This is the first, but quite similar to that which would take place in the bill, except in a very minimal sort of way.

Senator CHAFEE. When you work with the States, do you get into some sort of a matching fund formula?

Mr. SHEPARD. Yes, and it is a bit complicated. I heard you speak on complications, and our system is a bit complicated. We established and utilized as a guideline for our programs the Federal aid that has been an on-going Pitman-Robinson, Dingell-Johnston program with the States, except that we do not require anywhere near the size of the match, nor are we providing anywhere near the kind of dollars that they are.

We are making available this year a minimum of approximately \$15,000 in a small State, such as your own State, to States like California, where we are providing upwards of a quarter of a million dollars this year.

Senator CHAFEE. Yours is a contribution, you don't have any kind of a defined matching setup.

Mr. SHEPARD. No, the matching comes only through our own Ducks Unlimited volunteer programs within that State. So it is not a Government match whatsoever. It would, in fact, be just a contribution to the State to undertake wildlife programs.

Regarding specifics of the bill, Mr. Chairman, I would just like to comment that we have long felt that waterfowl hunters have supported much of the burden of financing wetlands acquisition and improvement programs through the purchase of duck stamps. We feel, and Ducks Unlimited is on record, with our president having reported before the Congress, that we fully support the increase in the duck stamp fee. We think that there is no problem. Once explained and fully accepted by the hunters, they will go to the \$15 and, if necessary, they will go to the \$15 before the year 1990.

Appropriately, the bill goes further by asking other wetland beneficiaries to assist in the program. In this, I am speaking specifically of the \$75 million annually from the Land and Water Conservation Fund.

Senator CHAFEE. Do you get hung up on the question of using your duck stamp as admission into refuge as the past witness does?

Mr. SHEPARD. No, I don't think we do, Mr. Chairman. I understand your problem with it.

Senator CHAFEE. Mo, it is not my problem. I didn't have a problem at all with it.

Mr. SHEPARD. The problem that has been brought to your attention.

Senator CHAFEE. Others were having a problem that somehow a user fee was becoming an admission fee, and that presented ideological problems of some nature that went right by me.

Mr. SHEPARD. Mr. Chairman, I would simply say this. I believe that our waterfowl hunters would be willing to support any reasonable increase in the duck stamp, certainly the \$15, but once done, I believe that they should not be requested or demanded to purchase a user stamp or a user entrance fee.

I think that they have done their share toward the preservation of our wetlands. They will do it, and they will continue to do it.

Senator CHAFEE. You are talking about if they go in to hunt on a refuge, or if they just want to walk through as a visitor?

Mr. SHEPARD. I would say that the fee would authorize that individual to utilize the refuge for whatever purpose he or she legitimately puts it to, walking through or hunting.

Senator CHAFEE. You heard the prior testimony.

Mr. SHEPARD. I understand.

Senator CHAFEE. Could you understand? I couldn't understand it.

Mr. SHEPARD. No.

Senator CHAFEE. What was the problem? Maybe I had better not get into that again. Just keep going.

Mr. SHEPARD. I would simply say that we support the proposal that would provide the excise tax on imported sporting arms and

ammunition for 10 years into the program to assist. We also support the acceleration of the schedule for the completion of the National Wetlands Inventory, as the better information we have, the better position we will be in to do a good job in the future, and to get support from the public and the Congress.

We have indicated, I think, some minor changes in the bill that have been brought to the attention of the committee of the National Cattlemen Association's concerns.

Senator CHAFEE. Yes, I saw that.

Mr. SHEPARD. That, I believe, Mr. Chairman, is all that I have to provide to you for testimony. We fully support the bill, and we would work with you in any way to help you get it passed.

Senator CHAFEE. Thank you very much, Mr. Shepard. We appreciate that.

Mr. SHEPARD. Mr. Chairman, may I make one positive comment with regard to this. I am pleased to report that through a cooperative program, started last year, with the Department of the Interior, to commemorate the 50th anniversary of the Duck Stamp Program, we will be turning over to the Department of the Interior something in excess of \$1 million on December 4 of this year for utilization in the acquisition program of the Department of the Interior.

Senator CHAFEE. Isn't that wonderful. That is grand. We are delighted at that.

From your experience, which State has done an extra good job of saving habitat?

Mr. SHEPARD. I would like to say Rhode Island, but I can't do that in all truthfulness. Where I served as the Director of Fish and Game in the neighboring State of Massachusetts for many, many years, Mr. Chairman, I would like to be able to say that State, but I can't. I think, in all sincerity, I would say that the States in the Mississippi flyway probably have done as much, if not more, than any of the other individual States toward the preservation and protection of good habitats for waterfowl.

Senator CHAFEE. What do you think has caused the decline in waterfowl this year? By the way, it is interesting that it is the lowest in 30 years. Thirty years ago, obviously, there was far more wetlands, and somehow the ducks came back from all over that, despite the ravaging of the wetlands that took place in the interim.

Maybe this thing goes in a seesaw fashion, although, obviously, the preservation of the wetlands is terribly important. Do you have any explanation for that?

Mr. SHEPARD. I would say, Mr. Chairman, that we did have some concerns this year. The organization had some concerns over the very substantial drop recorded, from a fall flight of 80 million birds down to 62 million, the biggest, I believe, on record since the surveys have been conducted.

We had a concern with regard to that reported drop. I would say that we have had fall flights of birds and breeders in numbers back in the 1960's, the last severe drought period that we had, equivalent to or even lower than that which we have had reported this year.

I think that it is a cyclical thing with regard to weather. As far as the breeders, with 70-plus percent of our birds being produced in

Canada, that is an important area, and they have had severe drought for 5 years, Mr. Chairman.

Senator CHAFEE. A drought?

Mr. SHEPARD. Yes.

Thank you very much, Mr. Shepard.

Senator CHAFEE. Ms. Hope Babcock, we welcome you back.

**STATEMENT OF HOPE BABCOCK, DEPUTY COUNSEL, NATIONAL
AUDUBON SOCIETY**

Ms. BABCOCK. Thank you, Mr. Chairman.

I would like to apologize at the outset for the typographical inversion in the bill number. I seem to be citing it as S. 470, and it is S. 740. I apologize for the creeping senility of the author of the testimony, or of our word processing machine.

I am pleased to be here today on behalf of the National Audubon Society to testify to the need for accelerated wetlands conservation and in support of your bill.

The unacceptably high annual rate of wetland loss, which you quoted in your opening statement, and severe problems with the administration of the wetlands permitting program under the Clean Water Act, make an aggressive conservation program for these important resources to be all the more critical.

With regard to the section 404 program, substantial information exists that 404 as currently implemented and enforced no longer provides an adequate measure of protection for freshwater wetlands in many parts of the country. In fact, the shameful state of the 404 program underscores the urgency of bills like S. 740.

In 1959, the Fish and Wildlife Service and State Fish and Game Agencies concluded that 12.5 million acres of wetlands habitat were required to maintain existing waterfowl populations. To achieve this goal, the Service determined that it would need to acquire an additional 3.8 million acres and the States 2.5 million acres.

The primary source of funding for this acquisition, as you know, was the Migratory Bird Conservation Fund. However, escalating land costs and the rate of wetland conversions have outpaced the acquisition efforts. You cited the acreage gap in your opening statement.

Experts estimate the likely cost of the effort to close this gap to be between \$1.2 and \$1.4 billion. The task is complicated by the fact of the effective October 1, 1986, date for the termination of the \$200 million loan program and the beginning of the repayment obligation, taking 75 percent of the revenues raised by the sale of duck stamps.

Indeed, left alone, in other words, without your bill, Mr. Chairman, the future would be bleak for the Federal wetlands acquisition program.

As you noted also in your opening statement, Mr. Chairman, State acquisition efforts have fared no better.

Let me turn now to our specific comments on S. 740. I would like to state clearly at the outset that Audubon supports charging National Wildlife Refuge entrance fees and transferring moneys from the Land and Water Conservation Fund for wetlands acquisition.

Attempts have been made in the past to divide the conservation community on these issues, pitting supporters of public lands and parks programs against those interested in wildlife and wetlands preservation. As must be well known by this committee, Audubon is actively involved in both programs, so we have one foot firmly planted in each camp. Our prime concern has always been in each of these programs the preservation of wildlife habitat from unnecessary and thoughtless destruction.

Thus, we are not offended at the prospect of using land and water conservation funds for wetlands acquisition since we view wetlands as an important part of the country's natural resource and recreational base that the fund was originally established to preserve.

Similarly, we support spreading more broadly the public burden of acquiring and maintaining wetlands to include the passive users of refuge areas. If this means charging entrance fees to designated National Wildlife Refuges, then we support that action.

Audubon also supports the 10-year extension in the expiration date of the Wetlands Loan Act, as well as striking the act's repayment requirement.

We also support titles II and III proposals to accelerate wetlands acquisition through increased funding. The specific proposals in those titles could produce, we estimate, an additional \$140 million over a 10-year period.

Audubon would like to see an aggressive duck stamp marketing program by the Fish and Wildlife Service to encourage the sale of these stamps.

We also endorse the elimination in section 205 of the restriction in the Land and Water Conservation Fund against using fund moneys for acquiring migratory waterfowl areas which are authorized to be acquired by the Migratory Bird Conservation Act.

Clearly, the more sources of money that are available for wetlands acquisition, the more acreage will eventually be acquired.

Title II also proposes the annual transfer of \$75 million for 10 years from the Land and Water Conservation Fund to a newly established Wetlands Conservation Fund in the Treasury for wetlands acquisition purposes. We support that provision.

We are especially pleased to note that S. 740, like its predecessor, S. 1329, contains an annual appropriation mechanism for these transferred funds.

We do, however, have some minor concerns with some of the provisions in title II and title III, but I stress that they are minor.

We are concerned that the bill proposes to allow wetland enhancement projects to compete equally at the State level for scarce funds with wetlands acquisition projects.

We support the use of moneys for enhancement projects provided that these projects lead to an increase in the total acreage of naturally functioning wetlands under protection. These moneys should not be used to restore wetlands that are then not added to the register of protected acreage. I think that it may just be a drafting oversight.

While we are pleased to endorse the idea of a national wetlands priority conservation plan, because such a plan will introduce a measure of rationality into the acquisition program, we are con-

cerned that conforming with the plan by the States is not a criterion of secretarial approval or funding of a State's comprehensive fish and wildlife resource management plan, while conformance with the national wetlands priority conservation plan is mandatory for the Federal wetlands acquisition programs.

We feel the States should be held to the same standards as the Federal Government.

With regard to the bill's funding provisions, we support the 75-25 cost sharing ratio. We think the strong Federal contribution to wetlands preservation underscores the national significance of this critical resource.

In addition, we support the expansion and rapid completion of the Fish and Wildlife Service's national wetlands inventory, and 10-year updates in the 1982 status and trends report by that same agency.

Information on the amounts, types, and distribution of the remaining wetlands acreage, as well as on trends and various wetlands parameters, leads to sound judgments, not only with regard to wetlands acquisition, but equally so with regard to the 404 regulatory program.

We also endorse the congressional report proposed in section 402, and this committee's expanding its focus to cover other incentives for wetlands preservation. We see the report to Congress as an important first step in implementing wetlands protection mechanisms that go beyond acquisition or regulation.

We ask this subcommittee not to wait too long before it takes steps to develop its own legislation in this area, and urge that in the next session of Congress, the subcommittee hold hearings on the topics covered in section 402 to gather its own information.

Thank you very much, Mr. Chairman.

Senator CHAFEE. Thank you very much. You have given us a lot of food for thought in there, particularly in the last part, and I am glad to have that.

Ms. BABCOCK. Thank you.

Senator CHAFEE. You mentioned the 75-25 percentage. Have you thought of less?

Ms. BABCOCK. One always has to think of less. I agree with the comments of Dr. Wentz, I think it was he, given the budgetary constraints on the States—these restraints apply not only at the Federal level—the more inducement the States have in terms of more available Federal funds to acquire these areas, the more areas we are actually going to get acquired. We really like the 75-25 ratio.

Senator CHAFEE. What do you think of the point that Mr. Tindall made about somehow getting it down to counties and towns where the zoning and building permits, where local actions are taken that are usually so destructive to wetlands?

Ms. BABCOCK. I think that I would like to think about that a bit more. Again, I was persuaded by Dr. Wentz' response that most of the acquisition effort is really happening at the State level. If you could add some flexibility, maybe that would be a good idea, but I would like to think about that. If you would like a written response to that question, I would be happy to furnish one.

Senator CHAFEE. It is awfully hard for us to be dividing moneys up beyond the States.

Ms. BABCOCK. I think you can percolate up activity that happens at the State level anyway, you could have a certain amount of activity happening at the local level that could be recognized at the State level.

Senator CHAFEE. You said that we would have to have the Federal criteria apply to the States, and I thought that we had that in here.

Ms. BABCOCK. With regard to the conformance with the priority plan?

Senator CHAFEE. I am concerned.

Ms. BABCOCK. As I read the bill, and I will be happy to correct my testimony here if my reading is wrong, I see the requirement for conformance with the priority plan applying only to the 50-50 split. You would apportion the moneys based on the activity occurring at the State level—that is, activity, at the State level, in conformance with the priority plan—but when it comes to secretarial approval of a plan, or actual funding, there seems to be no requirement that the plans conform to the national priority plan, or that the funds go for acquiring wetlands that conform to the national priority plan, whereas with regard to the Federal Government, it is quite specific.

Again, I think that it may be a drafting nuance.

Senator CHAFEE. We will take a look at that.

Ms. BABCOCK. Thank you very much.

Senator CHAFEE. Thank you all for coming. You have, as always been helpful to our deliberations.

[Whereupon, at 3:45 p.m., the subcommittee adjourned.]

[Statements submitted for the record and the bill, S. 740 follow:]

STATEMENT OF WALTER O. STIEGLITZ, DEPUTY ASSOCIATE DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, U.S. SENATE, ON S. 740, THE EMERGENCY WETLANDS RESOURCES ACT.

NOVEMBER 18, 1985

Mr. Chairman, I appreciate this opportunity today to present the Administration's position on S. 740, the Emergency Wetlands Resources Act.

This Administration is dedicated to the conservation of America's wetland resources and we have searched for new solutions. Over two and a half years ago, we transmitted to Congress the "Protect Our Wetlands and Duck Resources Act" (POWDR) with the hope that it would focus public attention on the loss of wetlands. We are pleased that it started a dialogue that has resulted in H.R. 1203 and S. 740. As you know, America is facing critical financial challenges that require us to make hard choices among many worthwhile programs throughout the Federal government. With respect to wetlands, we face the need to balance this important program with other programs vital to the Nation's well-being. To combat the growing Federal deficit, Federal acquisition must remain at constrained levels. In light of this fact, we are recommending amendments to S. 740 to allow us the flexibility to request such funds when the Federal budget climate improves.

In summary, the Administration position on S. 740 is as follows:

- o We support the concept of authorizing Federal wetlands acquisition by direct appropriation from the Land and Water Conservation Fund (LWCF), in such amounts as may be necessary. However, use of this authority would be constrained by budgetary concerns.
- o We support the increase in the price of the duck stamp with the proceeds to be used for acquisition of new migratory waterfowl habitat and would continue to use them for acquisition as proposed in the FY 1986 budget.
- o We support the extension of the authorization of the Wetlands Loan Act and we do not object to forgiveness of advances under that Act.
- o We support the concept of new wildlife refuge entrance fees, but we recommend that receipts be used for unit operation and maintenance rather than acquisition.

- o We oppose the establishment of a new Wetlands Conservation Fund.
- o We oppose the establishment of a new State grant program for wetlands acquisition.
- o We oppose earmarking any specific amounts from the LWCF for wetlands acquisition, and the expansion of the LWCF annual authorization.
- o We oppose the transfer of import duties on arms and ammunition to the Migratory Bird Conservation Fund.
- o We believe the new study and inventory authorizations and requirements to be unnecessary.

Mr. Chairman, your letter of invitation requested me to address two other issues related to our wetlands program. First, you asked about the status of the findings and recommendations of a Service study in Minnesota on how to generate greater public acceptance and long term compliance with the wetlands easement program. You also asked how the Service could convince State Governors to support the acquisition program in light of the current level of refuge revenue sharing payments.

In answer to the first question, the Service has established a pilot program where acreage is leased from farmers. They are paid on a yearly basis for the rights to restore drained wetlands and to plant preferred waterfowl nesting cover. The Service hopes to find out to what degree this program can improve waterfowl production. Results so far are positive.

With respect to the second question, the Service's refuge revenue sharing payments are based on a statutory formula and are derived from net revenues from the sale of products from Service lands. If net revenues are insufficient to make full payments according to the formula, direct appropriations are authorized to make up the difference. Although it is true that these payments have not been made at the full level authorized, over the years the Administration and the Congress have provided approximately the same level of direct appropriations.

Mr. Chairman this concludes my statement. I would be glad to answer any questions you may have. In addition, we would be pleased to work with this Committee in the development of mutually acceptable legislation.

Wildlife Management Institute

Dedicated to Wildlife Since 1911
Suite 725, 1101 14th Street, N.W.
Washington, D.C. 20005
202/371-1808

Statement of Lonnie L. Williamson
before the
Subcommittee on Environmental Pollution
Senate Committee on Environment and Public Works
on S. 740
November 18, 1985

Mr. Chairman:

I am Lonnie L. Williamson, secretary of the Wildlife Management Institute. Initiated in 1911, the Institute's program is dedicated solely to wildlife restoration and enhancement.

The Institute supports enactment of S. 740. Science has demonstrated the broad societal values of wetlands beyond question. It also tells us that our wetlands are disappearing at a worrisome rate. This committee and others have aired these facts sufficiently to gain overwhelming public support for wetland protection. We believe that the Emergency Wetlands Resources Act is an appropriate Congressional response to the problem at hand.

We endorse all the provisions in S. 740: extension of the Wetlands Loan Act and repeal of the repayment requirement; authorization for entrance fees at designated National Wildlife Refuges with the income credited to the Migratory Bird Conservation Fund; transfer of \$75 million annually for 10 years from the Land and Water Conservation Fund for wetland acquisition; increase of the Duck Stamp price to \$15 over a 5-year period; and redirection of the import duties on arms and ammunition to wetland protection.

We realize that the refuge entry fee provision may draw some objection. But we believe that such a fee is reasonable and appropriate to raise a few

more dollars for wetlands. Only a dozen or so refuges lend themselves to an entry fee program, according to the Fish and Wildlife Service. These areas, with limited access and population centers nearby, are used intensively for a variety of recreational purposes. There is a history of public land and facility users paying fees additional to the general revenue supplied by all taxpayers. Sportsmen through Duck Stamp purchases provide refuge acquisition money on the side. Likewise, those who purchase Golden Eagle Passports are supplying added revenue. Thus it seems sensible that others who actually enjoy the refuges contribute a little something extra where feasible.

The idea behind entry fees is the same as that supporting use of Land and Water Conservation Fund receipts for wetland acquisition....to get the broadest possible participation. After all, wetlands are valuable far beyond their benefits to hunting, or to other outdoor recreation, as the findings of S. 740 clearly state.

The Institute considers the mechanisms for allocating funds to the states under Title III to be proper. The language would direct 50 percent of the investments to states with active wetland protection programs. And in general, these are the states where wetland loss is most critical. Furthermore, Title III would obligate the remaining 50 percent to states that agree to acquire and enhance wetlands of national significance, as determined by the Interior Secretary. Also, the 3 to 1 federal-state matching requirement would allow the scarce state funds to go further. All considered, the fund-allocation mechanisms in S. 740 are very practical in that they focus on protecting priority areas and encourage vigorous state participation.

Mr. Chairman, we recommend that the committee consider a few minor changes to S. 740. First, we suggest that language be included to redirect the import duties on arms and ammunition from wetland acquisition to the Federal Aid in Wildlife Restoration Program, after the 10-year "emergency" period has expired.

Similar duties on fishing equipment were put in the Federal Aid in Sport Fish Restoration Program recently via the Wallop-Breaux Act. In our view, this would be an excellent way to get more special taxes paid by sportsmen into needed wildlife conservation work.

Second, we encourage the subcommittee to adopt language changes as suggested in a letter to the chairman on October 31, 1985. These recommendations were developed to overcome apprehensions expressed by the National Cattlemen's Association and some of its affiliates. The cattlemen's concerns as we understand them are that S. 740 may infringe on private property rights, promote unlimited acquisition of private lands, or sanction national land use planning. Although we do not share those worries with respect to this legislation, we have no objection to the misunderstanding being alleviated as recommended. A copy of the letter is attached to this statement.

Thank you for the invitation to comment on this important legislation.

STATEMENT OF
NATIONAL RECREATION AND PARK ASSOCIATION
BEFORE
SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
U.S. SENATE
ON
S. 740
NOVEMBER 18, 1985

Mr. Chairman and members of the Subcommittee, I am John H. Davis, executive director of the National Recreation and Park Association.

The Association is a national not-for-profit organization engaged in a wide range of research, education, policy and program assessments involving parks and recreation. We have a membership of 17,500 individuals, organizations and agencies which perform an array of civic, professional and technical functions to meet America's diverse recreation demands. Our members are associated with public recreation and park systems and other resource conservation entities. We have affiliate organizations in each of the 50 States, in Canada, and in Europe and Asia.

The Association appreciates the invitation to express its views and recommendations on selected aspects of the proposed "Emergency Wetlands Resource Act." Our testimony will focus on the following aspects of the bill:

- o Its overall objectives and the likely impact of certain provisions.

- o The relationship between wetland protection objectives and existing authorities, including the Land and Water Conservation Fund.
- o The potential effect of the bill on other eligible activities of the LWCF.
- o Recommended improvements in the bill.

We support congressional and Executive branch efforts to significantly improve and expand public and private actions to protect this nation's wetland resources. The proposed legislation may achieve these ends if certain aspects are amended. Further, additional clarifying legislative history may be helpful in certain areas to concurrently improve the proposed program, and to avoid distortion of other LWCF uses.

However, we must note that my organization has recommended to the President's Commission on Americans Outdoors the creation of a Land and Water Conservation Trust, based primarily on the corpus of the present Land and Water Conservation Fund and expanded revenue sources. Several other organizations and individuals have also made a similar recommendation. We expect this proposal to receive serious consideration. Generally, we believe it is more prudent to establish a major funding mechanism for related objectives, rather than a number of narrow, competing accounts.

OVERALL OBJECTIVES

The significant social, economic and biological values of natural resources have been well documented, and the Association supports special efforts to protect these resources.

The bill throughout defines wetlands and eligible activities in very broad terms, including authority to artificially create wetlands and construct related features for limited objectives. Given the "emergency" nature of the problem, we believe the national wetlands preservation effort should be focused on saving the most socially and ecologically productive natural wetlands. The bill should be reviewed from this perspective.

We strongly endorse the requirement in Sec. 402 for a report to the Congress regarding wetlands losses.

S. 740 AND THE LAND AND WATER CONSERVATION FUND ACT

The bill proposes to amend the Land and Water Conservation Fund Act in several ways: by automatically transferring \$75 million per year for ten years to a Wetlands Conservation Fund, with the use thereof subject to annual appropriations (and with the further effect of changing the Federal/State matching ratio for certain types of land protection functions); by allowing LWCF use for the acquisition of areas authorized to be acquired under the Migratory Bird Conservation Act (now disallowed by Sec. 7 (a)(1) of the LWCF Act); and by diverting some Golden Eagle Passport receipts from LWCF to the proposed Wetlands Conservation Fund.

The Association has reviewed both the intent and authority of S.740 and the likely practical effect of this bill in terms of resource protection. It has not been an easy task and there remain many uncertainties. The unwritten potential effects of the bill are even more elusive, including the effect of competition for other appropriations from the Land and Water Conservation Fund. Frankly, the Land and Water Conservation Fund, the proposed principal source of the

new funds, has not recently enjoyed strong support by the Congress, and support from the Administration has been minimal. Administration support for state and local government participation in LWCF has been non-existent, and this is not expected to change in the near future.

POTENTIAL IMPACT OF LWCF AMENDMENTS

The additional authorization for wetlands acquisition duplicates in part specific existing authority of the LWCF Act and its regulations. The U.S. Fish and Wildlife Service and state fish and wildlife and other agencies are eligible for and annually share in LWCF appropriations. (See Attachment 1, LWCF Grants Manual, Chapter 640.2, "Criteria for Acquisition".) The proposal comes at a time of severe fiscal stress for the LWCF grants program and for many state preservation efforts. For example, land acquisition for state parks had dropped steadily from an estimated 615,000 acres in 1979 to about 250,000 acres in 1983, according to the National Association of State Park Directors. The effective earmarking of annual appropriations for one type of land acquisition runs contrary to the intent of the act which is to permit the states to plan, acquire and develop needed land and water areas according to state priorities. It is important to note that the LWCF Act requires the governor of each state to formally certify that the state comprehensive outdoor recreation planning process has provided full opportunity for public participation in the process, and that the plan reflects the state's priorities. LWCF state administrators must annually report to the Department of the Interior on the utilization of grant funds--i.e. how did they match up against state priorities. Further, the funding ratio of 75 percent Federal share for a wetland-related project (versus, say, a threatened upland site) could

disrupt state and local priority setting, protection strategies and funding patterns.

RECOMMENDATIONS

Consistency of Required Planning Functions and Protection in Perpetuity. S. 740 requires some degree of national and state planning for wetland protection generally, and for project selection. The bill should further require a specific relationship and consistency to national and state plans and processes required by the Land and Water Conservation Fund Act. The Statewide Comprehensive Outdoor Recreation Plan now required to participate in LWCF should be an acceptable alternative to other plans if that plan or a supplement thereto adequately addresses wetland matters. Other related planning and program consistency requirements are contained in the Federal Water Project Recreation Act (P.L. 89-72), the Wild and Scenic Rivers Act (P.L. 90-542), the Water Resources Planning Act (P.L. 89-80), and others. The bill should require consistency with these and other appropriate statutes.

The bill should incorporate the "protection in perpetuity" feature of Sec. 6 of the Land and Water Conservation Fund Act.

Frankly, the proposal comes at a time when Federal budget reductions, and indifference on the part of the Department of the Interior have, for all practical purposes, terminated the national planning process required by the LWCF Act. This has placed stress and uncertainty on state planning requirements and capabilities.

Federal-State Matching Ratio. The present LWCF state grant program provides for up to 50 percent Federal match. S. 740 provides for 75 percent Federal share. We recommend that the wetlands acquisition

program be consistent with other LWCF acquisition authority. The proposed 75/25 ratio was apparently selected to conform with other Federal fish and wildlife aid statutes. The proposed program would provide near identical authority to the LWCF Act, thus we suggest that the matching ratio consistency should follow the existing state LWCF grant program. The protection of all types of natural resources, including wetlands, and the provision of recreation resource opportunities should be based on an objective assessment of state priorities. Different matching ratios could distort this process and put further stress on public funding decisions. Advocates of different forms of recreation will be put in a disadvantaged position. As a practical matter, to the best of our knowledge no state has ever failed to match its regular LWCF apportionment, at the 50/50 rate, thus, limited funds have been stretched further and more land has been protected. A 50/50 ratio should allow the protection of additional wetland resources.

"Golden Eagle Passport" and Proposed Refuge Fees. The LWCF Act provides for the sale of a "Golden Eagle Passport" (and variations of it for certain population groups) as an option to enter all designated Federal fee areas. Receipts have been intermittently credited to the Land and Water Conservation Fund, which has regularly aided Federal and State wildlife authorities. S. 740 [Sec. 201(b)] proposes to allow use of the existing federal Golden Eagle Pass, or in lieu thereof require purchase of a Migratory Bird Hunting and Conservation Stamp for access to selected federal refuges. Revenue would accrue to the Migratory Bird Conservation Fund. We have no objection to the crediting of these receipts to this account. However, the proposal ignores the significant

difference between a general access fee (Golden Eagle) and a special use requirement (the "duck stamp"). The Migratory Bird Hunting and Conservation Stamp should continue to be used only for its original objective-- partial authority (in addition to state licenses) to seek and consume migratory waterfowl and to direct revenues to the Migratory Bird Conservation Fund. Most waterfowl hunting occurs on private lands and waters. The Congress should not confuse this consumptive function with non-consumptive activities and general access fees.

It will be administratively simple to credit Golden Eagle Passport sales at all or selected units of the National Wildlife Refuge System to the Migratory Bird Conservation Fund. The Congress may also wish to consider increasing the price of the Golden Eagle Passport. However, we suggest that the effect could be of such magnitude that it should require a specific in-depth review.

We endorse elimination of the restriction against use of the Land and Water Conservation Fund for areas authorized for protection through the Migratory Bird Conservation Act.

Local Government Participation. Sec. 2(b) PURPOSE, refers to intensified cooperation and specific efforts, public and private, to protect wetlands. The role and importance of local government is specifically cited. However, we are unable to clearly determine whether other aspects of the bill specifically authorize general and special substate units of government to participate in the proposed Wetlands Conservation Fund and other aspects of the program. We recommend that such units of government be clearly authorized to participate, using state-level grant application reviews and processes currently followed for existing LWCF state and local grant program. This would give

further consistency with the LWCF objectives which have encouraged significant local government resource conservation efforts, including donations of private land. It would also recognize that most land use decisions are made in the context of local government plans, ordinances and zoning decisions. The bill and/or legislative history should also state clearly that all state natural resource management agencies presently eligible for LWCF are eligible also for participation in the program proposed here.

Program Administration. The bill or legislative history should clearly require close cooperation between current Interior Department LWCF grants administrators and all officials associated with the proposed Wetlands Conservation Fund. We recommend that the existing Land and Water Conservation Fund grant administration unit within the Department of the Interior also manage the proposed program. At the state level, we recommend that grant administration be managed by the state LWCF liaison officer, who presently represents many state interests with the Department of the Interior. This process could allow full participation by individuals or state agencies having expertise on wetland matters.

This concludes our prepared statement. We will provide the Subcommittee with specific bill language implementing our recommendations. I would be pleased to respond to questions.

CRITERIA FOR ACQUISITION

1. Types of Acquisition. Acquisition of lands and waters for public outdoor recreation, including new areas or additions to existing parks, forests, wildlife areas, beaches, and other similar areas dedicated to outdoor recreation may be eligible for assistance. Acquisition can be by fee simple title or by whatever lesser rights will insure the desired public use. The types of acquisitions that are eligible for assistance include, but are not limited to:
 - A. Areas with frontage on oceans, rivers, streams, lakes, estuaries, and reservoirs that will provide water-based public recreation opportunities, or the acquisition of water bodies themselves.
 - B. Land for creating water impoundments to provide water-based public outdoor recreation opportunities.
 - C. Areas that provide special recreation opportunities, such as floodplains, wetlands, and areas adjacent to scenic highways.
 - D. Natural areas and preserves and outstanding scenic areas where the objective is to preserve the scenic or natural values, including areas of physical or biological importance and wildlife areas. These areas must be open to the general public for outdoor recreation use to the extent that the natural attributes of the areas will not be seriously impaired or lost.
 - E. Land within urban areas for day-use picnic areas, neighborhood playgrounds, and tot lots; areas adjacent to school playgrounds and competitive nonprofessional sports facilities, as well as more generalized parklands.
2. Activities Covered. Areas acquired may serve a wide variety of outdoor recreation activities including, but not limited to: driving and walking for pleasure, sightseeing, swimming and other water sports, fishing, picnicking, nature study, boating, hunting and shooting, camping, horseback riding, bicycling, snowmobiling, skiing, and other outdoor sports and activities.

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STATEMENT OF ROBERT M. BRANTLY
TO
SENATE SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION
ON
EMERGENCY WETLANDS RESOURCE ACT OF 1985

November 18, 1985

Mr. Chairman: I am Robert Brantly, Executive Director of the Florida Game and Fresh Water Fish Commission. I am here today representing the International Association of Fish and Wildlife Agencies.

To say that the International and its member wildlife agencies in the 50 states, Canada, Mexico and Puerto Rico are interested in the issue addressed in S740--wetlands protection and restoration--would be a gross understatement. I know of no issue which enjoys more unified support within our Association, and I believe this is also true among most of the non-governmental conservation and environmental organizations.

Our concern for wetlands is not new. We have fully and consistently supported, over a span of nearly three decades, those measures which we perceived as offering at least some realistic prospect of slowing the loss of wetlands and their related resources.

While past measures have certainly been helpful, they have been largely unsuccessful in significantly stemming wetlands loss. Approximately one-half of the original 200 million acres of wetlands in the contiguous United States have already been destroyed, and the loss continues at the rate of an estimated 450,000 acres annually.

In my own state of Florida, which was blessed with an abundance of wetlands, the loss is even more drastic. Between 1906 and 1973, almost 60 percent of the State's wetlands were lost--over 11.5 million of the existing 19.8 million acres--and the losses continue. Between 1953 and 1973, 1.5 million acres were lost, an average of 75,000 acres annually. A study in Palm Beach County found that between 1973 and 1980, 24,422 acres of wetlands were lost in that county alone.

Only in recent years have we begun to realize and appreciate the many values of wetlands. River swamps, marshes and bayheads store upland runoff, accommodate floodwaters, maintain the flow of river and streams, and recharge groundwater. They also assist in maintaining water quality by trapping sediments and debris and assimilating nutrients before they reach open bodies of water. Wetlands frequently serve as buffers, protecting land areas from erosion, wave action and storm forces. Wetlands are among the most biologically diverse and productive areas in the nation and provide vital food, nesting and shelter for a variety of fish and wildlife species. The loss of wetlands has been a major factor in the degradation of water quality, the decline of fish and wildlife populations, the reduction of water supply, and the increase in potential for flood damage experienced in many parts of Florida and the nation.

The greatest threat to the perpetuation of acceptable levels of wildlife populations today is not unlawful hunting, disease or biological factors, nor overutilization. The greatest threat, without question, is habitat degradation and loss, which not only adversely impacts existing wildlife populations, but future ones as well. The wildlife managers' greatest challenge is, therefore, the protection and restoration of habitat; but, unfortunately, this is an area in which wildlife managers have traditionally had little influence or authority. We need additional help to meet this challenge, and the passage of S740 would be a significant step toward providing it.

Features which we consider essential to accomplishing the purpose of this legislation, most of which are already a part thereof, include:

1. An allotment of \$75 million a year from the Land and Water Conservation Fund for each of the next 10 years, with \$50 million of that yearly figure apportioned to the respective states for wetlands programs and the other \$25 million to be earmarked for federal wetlands acquisition. In order to assure continuity of this program and to achieve its full potential, it will be necessary that a steady flow of funds be a certainty. That will be possible only if the yearly apportionment is assured rather than being subject to the uncertainties of annual appropriations, and we urge your consideration to provide this assurance.
2. The establishment of entry fees for selected wildlife refuges, with the monies going to the Migratory Bird Conservation Fund. This provision has the effect of sharing the cost of wetlands protection among all users, a cost which up to this point has been borne almost exclusively by the nation's duck hunters. We would support the use of the Golden Eagle Passports or other lifetime permits for entry to such refuges, provided that an appropriate portion of the fees for such permits be credited to the Migratory Bird Conservation Fund.
3. An increase in the annual cost of a duck stamp from \$7.50 to \$15.00 in graduated steps over a five-year period, with those revenues also going to the Migratory Bird Conservation Fund.
4. A waiver of repayment of the approximately \$150 million spent since 1961 under the Wetlands Loan Act, thus avoiding the drain on the proceeds from duck stamp sales. Also, reauthorization of the Wetlands Loan Act for use as necessary during the 10-year life of the Emergency Wetlands Resource Act.
5. Credit to the Migratory Bird Conservation Fund those import duties collected annually on arms and ammunition. We urge that this provision be amended to require that, with the expiration of the 10-year period encompassed by the Emergency Wetlands Resource Act, these import duties would automatically be credited to the Federal Aid in Wildlife Restoration Program. Such an amendment would be consistent with Congressional action taken last year to shift import

duties on sport fishing tackle to the companion Federal Aid in Sport Fish Restoration Program.

With regard to the matter of allocation of funds to the states, we concur with the provision basing half of the allocation on the amount that each state has spent from its own funds for wetland activities in the most recent year of record and the other half on a wetlands priority formula.

Mr. Chairman, it is our belief that S740 provides a realistic, equitable and comprehensive approach to wetlands protection, and we strongly urge its timely passage. Thank you for allowing us the opportunity to express our thoughts on this matter.



NATIONAL WILDLIFE FEDERATION

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STATEMENT OF THE
NATIONAL WILDLIFE FEDERATION
BEFORE THE
SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION
OF THE SENATE COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS

ON

THE EMERGENCY WETLANDS RESOURCES ACT
S. 740

November 18, 1985

Submitted by:

W. Alan Wentz
Fisheries and Wildlife Division
National Wildlife Federation

Mr. Chairman, I am Alan Wentz, Director of the National Wildlife Federation's Fisheries and Wildlife Division.

I appreciate this opportunity to discuss the need for wetlands conservation and to provide comments on S. 740, The Emergency Wetlands Resources Act of 1985.

The National Wildlife Federation (NWF) is the world's largest conservation-education organization. We have over 4.5 million members and supporters throughout the U.S. and 51 affiliated state and territorial organizations. Since the formation of NWF in 1936, our members, affiliated organizations, and staff have supported and worked aggressively for the conservation of this country's wetlands. Our efforts continue today as we seek strong, comprehensive measures from this Congress to protect a rapidly vanishing national resource.

**THE RATE OF WETLANDS ACQUISITION
MUST BE INCREASED GREATLY**

A first, and very important, step in efforts to resolve the problem of wetlands loss must be increased funding for state and federal acquisition programs.

Conservation of wetlands has been a responsibility largely shared by the U.S. Fish and Wildlife Service (FWS) and state fish and wildlife agencies. In 1959 the FWS and the states determined that conservation of 12.5 million acres of waterfowl habitat was necessary in the U.S. to maintain waterfowl populations then existing. To achieve this goal, the FWS needed to acquire an

additional 3.8 million acres and the states an additional 2.5 million acres of wetlands.

The primary sources of funding for federal wetlands acquisition have come from sale of Migratory Bird Hunting and Conservation Stamps authorized by the Act of March 16, 1934, as amended, and from advance appropriations against future stamp sales authorized by the Wetlands Loan Act. With these funds the FWS purchased in fee or easement nearly 1.9 million acres toward their goal from 1959 to 1977. Acquisition of the remaining 1.95 million wetland acres for conservation of migratory birds was to be completed between 1977 and 1986. But at the end of fiscal year 1985 it is likely that more than 1.5 million acres will still need to be acquired. Thus, at the end of the ninth year of the ten-year plan, only about 22 percent, or 433,551 acres, of the FWS wetlands acquisition goal will have been achieved.

State acquisition of wetlands has fared even more poorly than the FWS effort. Largely because most states have not had a source of reliable funding such as the Duck Stamp, they have been able to acquire only about 425,000 acres since 1959. Thus, in 25 years only about 17 percent of the state wetlands acquisition goal has been achieved.

In numerous hearings before this and other House and Senate Committees and Subcommittees NWF has recommended measures to increase federal and state acquisition of wetlands. We have consistently recommended expanded funding for wetlands purchases through (1) extension of the Wetlands Loan Act and deletion of the provision that provides for repayment of the advance; (2) a

gradual increase in the price of the Duck Stamp to \$15.00 over a five-year period or longer; (3) continuing annual appropriations from the Land and Water Conservation Fund for state and federal acquisition over a 10-year period; (4) authorization for the Secretary of Interior to require a Duck Stamp or a single visit fee for entrance into designated units of the National Wildlife Refuge System; and (5) transfer of duties collected on imported arms and ammunition.

Depending on land price changes, these funding mechanisms should provide sufficient monies to allow the FWS and states each to purchase an additional 1 million acres toward their wetlands acquisition goals over the next 10 years. Indeed, with decreasing land prices in some parts of the U.S. we are now facing a unique opportunity to try to reach the goals that were established earlier.

S. 740 WILL ASSIST IN REACHING WETLANDS ACQUISITION GOALS

S. 740 largely incorporates the proposals to increase funding for federal and state wetlands acquisition that are outlined above, and we enthusiastically support those provisions of the bill.

Specifically, NWF supports expansion of the Migratory Bird Conservation Fund for federal wetlands acquisition by collecting refuge entry fees and increasing the price of the Duck Stamp. These provisions are estimated to produce \$140 million in new revenues over a 10-year period. We believe it is desirable to broaden the base of those paying for refuge and wetlands

acquisition beyond America's waterfowl hunters, who are the primary purchasers of the Duck Stamp. Requiring a Duck Stamp or a reasonably-priced single visit fee for entry to selected National Wildlife Refuges is, in our opinion, an equitable means of broadening that support for acquisition and to raise revenues to achieve that goal.

S. 740 would transfer \$75 million per year for 10 years from the Land and Water Conservation Fund to a newly-established Wetlands Conservation Fund for federal wetlands acquisition and federal support of state efforts to acquire, enhance, and preserve wetlands. Annual appropriations of up to \$75 million are then authorized from the Wetlands Conservation Fund.

Of the amount actually appropriated from the wetlands fund each year, a maximum of two-thirds (\$50 million) would be made available to the states to provide up to 75 percent of the costs of federally approved wetlands conservation projects. State wetlands conservation projects include wetlands acquisition (including leasing), enhancement, and preservation projects as defined in the legislation.

One-half of the funding made available to the states each year is apportioned according to a priority system, which is to be developed by the Secretary of the Interior. The remaining half of the states' share of appropriated funds is allocated according to a state's previous commitment of funds to wetlands conservation projects.

The federal share of the total annual appropriation from the Wetlands Conservation Fund is one-third, which is to be used to

acquire wetlands for addition to the National Wildlife Refuge System.

RELIABLE FUNDING IS ESSENTIAL

NWF supports the federal and state wetlands conservation program crafted in S. 740 with a number of important caveats. Most importantly, the mere authorization of annual appropriations up to \$75 million over 10 years will not result in acquisition or protection of a single acre, let alone 2 million acres, of wetlands unless this Subcommittee requests and the Appropriations Committee makes available the full authorized amount each year over the next decade.

It is no accident that the most successful federal and state programs to protect wetlands and other wildlife habitat are the Duck Stamp, and the Federal Aid in Wildlife (Pittman-Robertson; P-R) and Sport Fish (Dingell-Johnson; D-J) Restoration programs. These programs have had one important common denominator. They all have been funded through continuing annual appropriation provisions that have ensured that monies collected each year are actually spent for the purposes of the programs. Because Congress wisely chose to provide a mechanism to ensure stable funding for state and federal efforts under the Duck Stamp, P-R, and D-J legislation, these programs became the foundation of wildlife management and habitat protection in this country.

Second, contrast the success of the continuing appropriations under the Duck Stamp, P-R, and D-J legislation with the authorizations that have produced only limited success under the

Wetlands Loan Act or Section 6 of the Endangered Species Act, or that have resulted in the unsuccessful implementation of the Fish and Wildlife Conservation ("Nongame") Act of 1980.

The Wetlands Loan Act provides an instructive example. The legislation authorized a \$200 million loan to the Duck Stamp fund in order to purchase wetlands quickly while they were still available and still relatively inexpensive. The loan was an innovative funding mechanism that should have worked. It should have allowed relatively large appropriations over a short period of time. But it did not. Even though the funds were only a loan with a guaranteed payback provision, administrations and Congress were unwilling to spend much of the money in any one year.

Twenty-five years after the program was established we still have not spent the authorized amount. By spending a meager \$7 million per year, on average, we so diminished the effectiveness of the \$177 million borrowed that we now find ourselves far short of our wetlands acquisition goals and in desperate need of relieving the overburdened Duck Stamp program from repaying the loan.

Third, it makes little sense to require states to undertake the effort and expense required to submit comprehensive plans or project proposals for federal approval over a relatively short ten-year period unless the accompanying funding is reasonably predictable from year to year. Given recent state experience with similar grant programs, without strong support in future years for full appropriations the uncertain funding mechanism is unlikely to encourage state participation or to make efficient use of the dollars appropriated.

S. 740 also should be amended to change the definition of 'wetlands acquisition' to (1) clarify that leases or easements must be obtained in perpetuity and (2) limit the amount that the state can spend in administrative expenses to acquire wetlands.

Finally, two other points need to be made with regard to Title III. First, NWF supports the use of the Wetlands Conservation Fund monies for enhancement and preservation projects provided that these projects serve to increase the acreage and/or quality of naturally functioning wetlands under state or federal protection. Second, NWF supports the Title III cost-sharing formula of 25 percent state funds and 75 percent federal Wetlands Conservation Fund monies. This matching formula is the same as that provided under the P-R and D-J programs and under the Endangered Species Act. The strong federal contribution is warranted, we believe, because wetlands are a nationally significant resource that regardless of their location provide services and products for all Americans.

**THE NATIONAL WETLANDS INVENTORY SHOULD
BE EXPANDED AND EXPEDITED**

NWF supports the expansion and rapid completion of the National Wetlands Inventory project of the U.S. Fish and Wildlife Service as provided in Title IV of S. 740. Efforts to conserve our nation's limited wetlands resources require sound information on the amount, types and distribution of wetlands as well as information on the trends in those wetlands parameters.

PRIVATELY OWNED WETLANDS
MUST BE CONSERVED

Most wetlands are privately owned. Therefore, while it is extremely important for active federal and state acquisition programs to continue, it is more important to provide mechanisms to maintain or restore wetlands that are privately owned. This should be done through tax incentives for maintaining wetlands on private property, for donations of privately-owned wetlands to government agencies or conservation organizations, and for restoration or creation of wetlands. Mitigation of wetlands loss due to publicly- or privately-supported development, elimination of tax incentives for drainage and conversion, elimination of all other governmental incentives and assistance that encourage wetlands destruction, and a comprehensive wetlands regulatory program to protect the public interest have yet to be addressed adequately by Congress.

The report to Congress outlined in Title IV of S. 740 is an important step in implementing these wetlands protection mechanisms. We certainly need to know more about what federal statutory and regulatory provisions induce wetlands destruction and degradation. And we need to know what environmental and fiscal impacts may result in the future from eliminating or restricting these provisions and from failure to eliminate or restrict these provisions. But the need to know more should not paralyze us for several more years.

We encourage the members of this Subcommittee to support

other wetlands protection legislation that hopefully will be considered by the Congress. Over 50 years ago discussions very much like the one we are engaged in today were held. The topics were much the same and the needs were defined in much the same manner. Even the solutions were similar. One thing that is different today is that we have 50 percent fewer wetland acres to worry about. If decisive and effective action is not taken soon, the need to hold discussions pondering methods to preserve wetlands will no longer exist because our wetlands will be gone.

If, on the other hand, we are able to combine an effective program of state and federal acquisition with a strong regulatory program and an attractive tax incentive package we will be able to ensure that future generations of Americans will continue to derive the many benefits provided by wetlands.

In late October NWF and several other organizations signed a letter to the Chairman seeking several minor changes in S. 740 and items to be included in report language. A copy of that letter is attached to this testimony to be included in the record. -

This concludes NWF's statement on the wetlands conservation provisions of S. 740. We thank you for the opportunity to present our views and look forward to working with the Subcommittee as it considers this important legislation.

STATEMENT OF JAMES M. SHEPARD, SPECIAL ASSISTANT TO
THE EXECUTIVE VICE PRESIDENT, DUCKS UNLIMITED, INC.
BEFORE THE SENATE SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION
NOVEMBER 18, 1985, ON S.740, THE EMERGENCY WETLANDS
RESOURCES ACT

I AM JAMES M. SHEPARD, SPECIAL ASSISTANT TO THE EXECUTIVE VICE PRESIDENT OF DUCKS UNLIMITED. I AM PLEASED TO BE HERE TODAY TO OFFER OUR COMMENTS IN SUPPORT OF S.740, THE EMERGENCY WETLANDS RESOURCES ACT. THIS BILL IS THE RESULT OF THE EFFORTS OF THE P.O.W.D.R. (PRESERVE OUR WATERFOWL AND DUCK RESOURCES) TASK FORCE, ON WHICH DUCKS UNLIMITED VOLUNTEERS AND STAFF WERE PLEASED TO SERVE. AS SUCH, IT ADDRESSES IN A POSITIVE FASHION OUR MOST CRITICAL NEED AFFECTING WATERFOWL RESOURCES IN NORTH AMERICA: THE LOSS AND DESTRUCTION OF WETLANDS.

AS YOU ARE AWARE, DUCKS UNLIMITED HAS BEEN IN EXISTENCE FOR ALMOST 50 YEARS AND, THROUGHOUT THAT TIME, HAS HAD THE SINGLE PURPOSE OF PRESERVING, MAINTAINING, AND DEVELOPING WETLANDS FOR NORTH AMERICA'S WILD DUCKS AND GEESE. AS THE BILL SO CLEARLY RECOGNIZES, THESE WETLANDS ARE IMPORTANT NOT ONLY FOR WATERFOWL, BUT ALSO FOR HUNDREDS OF OTHER SPECIES OF MIGRATORY AND RESIDENT FISH AND WILDLIFE, INCLUDING MIGRATORY BIRDS, ENDANGERED SPECIES, FIN FISH, SHELLFISH AND OTHER ORGANISMS. THEY ALSO CONTAIN MANY UNIQUE SPECIES AND COMMUNITIES OF WILD PLANTS. THE WILDLIFE OUTPUT OF ~~THESE~~ WETLANDS

IS IMPORTANT FOR BOTH RECREATIONAL AND COMMERCIAL USES, INCLUDING HUNTING, FISHING, BIRD WATCHING, AND NATURE OBSERVATION. IN ADDITION, WETLANDS ENHANCE WATER QUALITY, AND PROVIDE A NATURAL MEANS OF FLOOD AND EROSION CONTROL, THUS BENEFITING ALL CITIZENS.

DURING ITS EXISTENCE, DUCKS UNLIMITED HAS RAISED AND PUT TO USE OVER \$300 MILLION DEVELOPING CRITICAL HABITATS FOR WATERFOWL AND OTHER ASSOCIATED WETLAND SPECIES IN NORTH AMERICA. WHILE MOST OF OUR WORK HAS BEEN DONE IN CANADA, WHERE WE HAVE ABOUT 3.5 MILLION ACRES UNDER RESERVATION AND HAVE DEVELOPED OVER 2200 PROJECTS AND 14,000 MILES OF SHORELINE. IN ADDITION, WE HAVE DEVELOPED NEARLY 1/4 MILLION ACRES IN MEXICO AND RECENTLY WE BEGAN TO DEVELOP THE SAME KINDS OF PROJECTS IN THE IMPORTANT NESTING AREAS OF THE UNITED STATES AND, IN ADDITION, ARE WORKING WITH ALL THE STATES' FISH AND GAME DEPARTMENTS TO DEVELOP WATERFOWL ENHANCEMENT PROJECTS IN THOSE STATES. S.740 IMITATES DUCKS UNLIMITED'S PROGRAMS IN THE REGARD THAT IT ENVISIONS THE DEVELOPMENT OF WETLANDS IN ALL PORTIONS OF THE UNITED STATES BUT PUTS EMPHASIS ON CRITICAL BREEDING, MIGRATING, AND WINTERING AREAS. WE TAKE THIS AS A HIGH FORM OF COMPLIMENT.

REGARDING SPECIFIC PORTIONS OF THE BILL, WE HAVE LONG FELT THAT WATERFOWL HUNTERS HAVE SUPPORTED MUCH OF THE BURDEN OF FINANCING WETLAND ACQUISITION AND IMPROVEMENT PROGRAMS THROUGH THE PURCHASE OF WATERFOWL HUNTING AND CONSERVATION STAMPS, COMMONLY CALLED DUCK STAMPS. WE FEEL HUNTERS WILL READILY CONTINUE TO SHOULDER MORE THAN THEIR FAIR SHARE OF THE FINANCIAL BURDEN BY SUPPORTING THE GRADUATED INCREASE OF THE DUCK STAMP TO \$15 BY 1990.

APPROPRIATELY, THE BILL GOES FURTHER BY ASKING OTHER WETLAND BENEFICIARIES TO SHARE PART OF THE FINANCIAL BURDEN. IT IS CERTAINLY NOT UNREASONABLE TO ASK USERS OF THE NATIONAL WILDLIFE REFUGE SYSTEM TO EITHER PURCHASE A DUCK STAMP OR PAY A REASONABLE ENTRY FEE FOR THEIR USE OF THE REFUGES FROM WHICH THEY OBTAIN SO MUCH ENJOYMENT. ALSO, THE TRANSFER OF \$75 MILLION ANNUALLY FROM THE LAND AND WATER CONSERVATION FUND IS RECOGNITION BY THE CONGRESS THAT ALL MEMBERS OF THE PUBLIC ARE BENEFICIARIES OF WETLANDS AND THE WILDLIFE RESOURCES THEY PRODUCE. WE WHOLE-HEARTEDLY SUPPORT BOTH THESE INITIATIVES.

LONG NEGLECTED AS A SOURCE OF INCOME FOR WILDLIFE PROGRAMS ARE IMPORTED SPORTING ARMS AND AMMUNITIONS. S.740 RECOGNIZES THIS OVERSIGHT AND PROPOSES THAT THE IMPORT DUTIES COLLECTED FROM THESE ITEMS BE CREDITED TO THE MIGRATORY BIRD CONSERVATION FUND, WHERE THEY CAN BE APPROPRIATELY USED FOR WETLANDS PROTECTION AND ENHANCEMENT.

WE ALSO SUPPORT THE ACCELERATION OF THE SCHEDULE FOR COMPLETION OF THE NATIONAL WETLANDS INVENTORY AND THE REPORT ON THE LOSS OF WETLANDS IN THE UNITED STATES. THE BETTER THE DATA WE HAVE UPON WHICH TO BASE OUR DECISIONS REGARDING WETLANDS RESOURCES, THE BETTER AND MORE EFFECTIVE OUR EFFORTS WILL BE TO DEVELOP AND ENHANCE THESE RESOURCES.

WE HAVE ENDORSED SOME MINOR CHANGES TO THE BILL WHICH WERE SUBMITTED TO YOU IN A JOINT LETTER FROM SEVERAL ORGANIZATIONS.

THESE RECOMMENDATIONS MAKE NO SIGNIFICANT CHANGES IN THE BILL, BUT DO REDUCE THE CHANCE FOR MISINTERPRETATION OF CERTAIN PROVISIONS.

IN CONCLUSION, MR. CHAIRMAN, DUCKS UNLIMITED IS PLEASED TO SUPPORT S.740 BECAUSE IT MORE EQUITABLY SPREADS THE RESPONSIBILITY FOR WETLANDS CONSERVATION AND ENHANCEMENT AMONG ALL USERS OF THE RESOURCES. AND, IN ADDITION, IT CALLS FOR A JOINT EFFORT BY FEDERAL GOVERNMENT, STATE GOVERNMENT AND, IN CONCERT WITH PROVISIONS OF THE 1985 FARM BILL, PRIVATE LAND OWNERS AS WELL. THIS FULL APPROACH IS A GIANT STEP FORWARD AND, HOPEFULLY, WILL BE THE BEGINNING OF A NEW ERA OF COOPERATION AND COORDINATION FOR THE ENHANCEMENT OF WETLANDS. AGAIN, WE APPRECIATE THE OPPORTUNITY TO MAKE THESE COMMENTS, AND WILL BE PLEASED TO ANSWER ANY QUESTIONS YOU MAY HAVE.



National Audubon Society

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STATEMENT OF HOPE M. BABCOCK
DEPUTY COUNSEL AND DIRECTOR OF PUBLIC LANDS AND WATERS PROGRAM AT
THE NATIONAL AUDUBON SOCIETY

BEFORE THE SENATE SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION

REGARDING

S. 470

THE EMERGENCY WETLANDS RESOURCES ACT OF 1985

NOVEMBER 18, 1985

Mr. Chairman, distinguished members of this Subcommittee, my name is Hope Babcock. I am Deputy Counsel of the National Audubon Society and Director of Audubon's Public Lands and Waters Program. Audubon is one of the oldest and largest conservation organizations in the country, with over one-half million members and 500 chapters nationwide. Audubon is dedicated to the protection of the environment and to the wise use and conservation of our natural resources, chief among which are our nation's wetlands.

I am pleased to be here today to testify on the need for accelerated wetlands conservation and in support of S. 470. The unacceptably high annual rate of wetlands loss -- estimated by the U.S. Fish and Wildlife Service to be in excess of 458,000 acres -- and severe problems with the administration of the wetlands permitting program under the Clean Water Act makes an aggressive conservation program for these important resources all the more critical. According to the U.S. Fish and Wildlife Service, at the present rate of wetland losses, 100 years from now there will be virtually no naturally occurring waterfowl breeding habitat in the contiguous states and only half of our present over-wintering waterfowl habitat will remain (Status and Trends of Wetlands and Deepwater Habitats in the Conterminous United States, 1950s to 1970s, Office of Biological Services, Washington, D.C.). California and Connecticut have less than 10% of their original wetlands, Iowa less than 5%, the alluvial bottomlands of the Mississippi, less than 20% -- the country as a whole, less than 46%. While the Committee, I am sure, has heard these statistics many times before, we in the conservation community continue to cite them as somber testament that we must find more aggressive and creative ways to preserve wetlands.

Against this tide of loss stand two federal programs: Section 404 of the Clean Water Act, and federally funded wetlands acquisition programs, the subject of today's hearing. Substantial information exists that the 404 Program as currently implemented and enforced no longer provides an adequate measure of protection for freshwater wetlands in many parts of the country. The Office of Technology Assessment, in a March 1984 Report entitled "Wetlands: Their Use and Regulation," calculates that the 404 permitting Program prevented a mere 50,000 acres of wetlands a year from being converted to non-wetland uses. In the words of former Assistant Interior Secretary for Fish and Wildlife Ray Arnett, "the Army's regulatory program is so flawed, it is no longer a usable tool to adequately protect wetlands." The shameful state of the 404 Program underscores the urgency of bills like S. 470.

In 1959, the Fish and Wildlife Service and state fish and game agencies concluded that 12.5 million acres of wetland habitat were required to maintain existing waterfowl populations. To achieve this goal, the Service determined that it would need to acquire an additional 3.8 million acres and the states 2.5 million acres.

The primary source of funding for this acquisition program has been the Migratory Bird Conservation Fund (16 U.S.C. 715-715d etc.). The Fund itself is financed from the sale of Migratory Bird Hunting and Conservation Stamps (known as "Duck Stamps") and from advance appropriations against future stamp sales authorized by the Wetlands Loan Act of 1961 (16 U.S.C. 715k-3 to 715 k-5). The Loan Act authorized a \$200 million loan from the Land and Water Conservation Fund for that purpose. However, the escalating land costs and rate of wetland conversions have outpaced the acquisition effort. The result is that 1.6 million acres remain to be acquired if the Fish and Wildlife Service is to meet its 1959 goal for federal acquisition. Experts estimate

the likely cost of the effort to be between \$1.2 and \$1.4 billion. The task is complicated by the fact that effective October 1, 1986, the \$200 million loan must begin to be repaid through the obligation of 75% of the revenues raised by the sale of Duck Stamps. Indeed, left alone, the future is bleak for the federal wetlands acquisition program.

State acquisition efforts have fared no better. The states have only been able to achieve 17% of their acquisition goal. The proposed increased and expanded funding opportunities for federal and state wetlands acquisition in your bill, Mr. Chairman, are what make S. 470 so critical.

Let me turn now to our specific comments on S. 470. I would like to state clearly at the outset that Audubon supports the bill's more controversial provisions, such as charging national wildlife refuge entrance fees and transferring money from the Land and Water Conservation Fund for wetlands acquisitions. Attempts have been made in the past to divide the conservation community on these issues, pitting supporters of public lands and parks programs against those interested in wildlife and wetlands preservation. As must be well known to this Committee, the National Audubon Society is actively involved in both programs, and so we have one foot firmly planted in each camp. Our prime concern in all of these programs has been and will continue to be the preservation of wildlife habitat from unnecessary and thoughtless destruction. Thus we are not offended at the prospect of using Land and Water Conservation Funds for wetlands acquisition, since we view, as does the legislation, wetlands as an important part of the country's natural resource and recreational base that the Fund was established to preserve. Similarly, we support spreading more broadly the public burden of acquiring and maintaining wetlands to include the passive users of refuge areas. If this

means charging entrance fees to designated national wildlife refuges, then we support that action.

Title I proposes a 10-year extension in the expiration date of the Wetlands Loan Act as well as striking the Act's repayment requirement. We heartily support these proposed changes to the Act. The additional time is obviously needed to complete the remaining acquisitions to meet the Fish and Wildlife Services' 1959 goal. The elimination of the repayment requirement means that Duck Stamp monies will continue to be 100% available for future acquisitions purposes after the expiration date of the Loan Act, without any siphoning off for repayment purposes.

Titles II and III propose to accelerate wetlands acquisitions through increased funding. We support these provisions.

Audubon supports the proposals to expand the Migratory Bird Conservation Fund's federal wetlands acquisition program not only by collecting entrance fees at designated National Wildlife Refuges, but also by gradually increasing the price of Duck Stamps. Those provisions could produce \$140 million in new revenues over a ten-year period. Audubon would like to see an aggressive Duck Stamp marketing program by the Fish and Wildlife Service to encourage sale of these stamps. Audubon is pleased to note the absence of the "turnstile" approach to the problem of collecting entrance fees and is confident that the bill's alternative collection measures, such as group and individual passes as well as the use of Duck Stamps, will result in maximum compliance with the provisions in Title II. Audubon also endorses the elimination in §205 of the restriction in the Land and Water Conservation Fund against using Fund monies for acquiring migratory waterfowl areas which are authorized to be acquired by the Migratory Bird Conservation Act. Clearly, the more sources of money that are available for wetlands acquisitions, the more acreage will be eventually

acquired -- old restrictions on the use of the Land and Water Conservation Fund, which may have had a basis in 1965, are no longer appropriate given the increased cost of acquisitions and the crisis nature of the problem.

Title II also proposes the annual transfer of \$75 million for ten years from the Land and Water Conservation Fund to a newly established Wetlands Conservation Fund in the Treasury. This money is to be used for federal acquisition of wetlands and federal support of state efforts to acquire, conserve and enhance wetlands, in a program detailed in Title III of the bill.

We are especially pleased to note that S. 470, like its predecessor S. 1329, contains an annual appropriation mechanism for these transferred funds. Providing for the annual appropriation of the entire amount avoids the problems experienced under the Wetlands Loan Act, where after nearly 25 years only three-quarters of the authorized amount has been spent.

We do, however, have a few relatively minor concerns with this title. First, if I have made any point here today, I hope it has been to impress upon the members of this Subcommittee the dire need for funds to acquire wetlands. Therefore, I must express our concern that the bill proposes to allow wetlands "enhancement" projects to compete equally at the state level for scarce funds with wetlands "acquisition" projects. (This result is apparent from the defining of the term "wetlands conservation" to mean both enhancement and acquisition (16 U.S.C. §718(d)(1)(B) and then authorizing the Secretary to use fund money to reimburse 75% of the state's estimated costs of "wetlands conservation projects" 16 U.S.C. §718(d)(4)(B)). We support the use of monies for enhancement projects, provided that these projects lead to an increase in the total acreage of naturally functioning wetlands under protection. These monies should not be used to restore wetlands that are then not added to the

register of protected acreage. The tests appearing in proposed §718(d)(5) of "substantial character and design" will not assure that these monies will be spent on increasing the actual wetland acreage under protection. The section should be amended to add this requirement.

Second, Audubon is pleased to endorse the idea of a national wetlands priority conservation plan. Such a plan will introduce a measure of rationality into the acquisition program. However, we are concerned by the fact that conforming with the plan by the states is not a criterion of Secretarial approval or funding of a state's comprehensive fish and wildlife resource management plan (16 U.S.C. §718(d)(4)(A)) or a specific wetlands conservation project (16 U.S.C. §718(d)(4)(B)) under 16 U.S.C. §718(d)(5) (see, §301(b) of S. 470); while conformance with the national wetlands priority conservation plan is mandatory for federal wetlands acquisitions (§205). The national priority plan appears to be relevant only for determining the state allocation formula under 16 U.S.C. §718(d)(3)(ii). The states should be held to the same standard as the Federal Government, if the national wetlands priority conservation plan is to have any meaning.

With regard to the bill's funding provisions, Audubon supports the 75-25 cost-share ratio. This strong Federal contribution to wetlands preservation underscores the national significance of this critical natural resource. We also support the 4% cap on administrative expenses contained in proposed 16 U.S.C. §718(d)(3).

In addition, Audubon supports the expansion and rapid completion of the U.S. Fish and Wildlife Service's National Wetlands Inventory and 10-year updates of the 1982 Status and Trends of Wetlands and Deepwater Habitat in the Conterminous United States, 1950's to 1970's report. Only with more

information on the amount, types and distribution of remaining wetland acreage as well as on trends in various wetland parameters can sound judgments be made on the conservation of these resources -- that statement applies to the 404 regulatory program as well.

It is a fact that most wetlands are privately owned. This fact appears to be implicitly recognized in §402 of S. 470. Section 402 requires the Secretary of Interior to report to the Committee by September 30, 1986 on, among other things, the environmental costs and benefits from restricting Federal expenditures and financial assistance programs inducing wetlands destruction or degradation. Government programs that encourage conversion of wetlands to other uses are costly in terms of taxpayer dollars expended and resources lost. This fact has been recognized in the new nonpoint source pollution program in the pending amendments to the Clean Water Act, in the pending "swampbuster" provisions of the Farm bills, and in recent reforms to the tax code introduced by Senator Boren (S.1786). We endorse the idea of such a report and this Committee's expanding its focus beyond regulation of the 404 and acquisition programs to cover other incentives and disincentives with regard to wetlands preservation. We see the report to Congress as an important first step in implementing wetlands protection mechanisms that go beyond acquisition or regulation. But we ask this Subcommittee not to wait too long before it takes steps to develop its own legislation in this area and urge that next session the Subcommittee hold hearings on the topics covered in §402 to gather information.

I thank the members of the Committee for their attention and would be pleased to try and answer any questions that you might have on my prepared remarks.

December 13, 1985



The Honorable John Chafee
Chairman, Subcommittee on Environmental Pollution
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing on behalf of the members of the Izaak Walton League of America to express the organization's full support for S.740, the Emergency Wetlands Resources Act of 1985. We request that this letter be submitted for the record.

Founded in 1922, the Izaak Walton League of America is one of this nation's oldest conservation organizations, dedicated to preserving America's natural resource heritage for future generations. For more than 63 years the preservation of America's wetland resources has been one of the organization's top priorities and remains so today.

The Emergency Wetlands Resources Act is being considered at a time when it is most desperately needed. The United States Fish and Wildlife Service estimates that wetlands are being destroyed at a rate of approximately 450,000 acres per year. Migratory water fowl populations dependent on wetlands for breeding habitat are at an all time low. Current federal and state wetland acquisition programs have fallen short in acquiring sufficient lands necessary to ensure protection of these critical habitat areas. Also, as the Subcommittee discovered during recent oversight hearings, Section 404 of the Clean Water Act, this nation's primary regulatory tool for protecting wetlands from unnecessary destruction, is currently not doing the job Congress intended it to do, protecting these vital resources.

S. 740 has a comprehensive approach to funding the acquisition and conservation of wetland resources at both federal and state levels. The League supports all of the provisions to provide additional funding. The extension of the Wetlands Loan Act and the forgiveness of the current repayment requirement means that all revenues derived from the sale of Duck Stamps will continue to be directed to the Migratory Bird Conservation Fund for the acquisition of wetlands. This provision will, in effect, provide approximately \$177 million for acquisitions. An estimated additional \$140 million in revenues will be raised for the Migratory Bird Conservation Fund over the next ten years from admission fees established at selected units of the National Wildlife Refuge System and the gradual doubling of the price of the Duck Stamp.

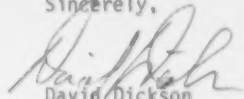
The League also supports the transfer of \$75 million annually from the Land and Water Conservation Fund to the - to be established - Wetlands Conservation Fund. We feel the 75 percent federal cost-share in grants to states out of the new fund is appropriate and will encourage state participation. However, we express concern that funds given to states for "wetlands conservation" be

spent to increase the acreage of naturally functioning wetlands under permanent protection. The League is pleased with the provision in Section 205 which lifts the restrictions on the purchase of wetlands with funds from the Land and Water Conservation Fund.

We also support the establishment of a national wetland priority plan, to guide acquisition efforts, and the acceleration of the National Wetlands Inventory. In addition, the League supports the provision in Section 402 requiring a report to Congress from the Secretary of Interior regarding wetlands losses.

Mr. Chairman, we thank you for this opportunity to express our support for S. 740 and look forward to working for its enactment in the 99th Congress.

Sincerely,



David Dickson
Conservation Associate

DD/jr



**NATIONAL
CATTLEMEN'S
ASSOCIATION**

Statement of the

1301 Pennsylvania Avenue, N.W.
Suite 300
Washington, D.C. 20004
(202) 347-0228

NATIONAL CATTLEMEN'S ASSOCIATION

regarding

S.740, Emergency Wetlands Resources Act

before the

Subcommittee on Environmental Protection
Committee on Environment and Public Works
U.S. Senate

submitted by

Walt Woolley, Chairman
Public Lands & Environment Committee

National Cattlemen's Association

November 18, 1985

The National Cattlemen's Association is the national spokesman for all segments of the nation's beef cattle industry--including cattle breeders, producers, and feeders. The NCA represents approximately 230,000 professional cattlemen throughout the country. Membership includes individual members as well as 51 affiliated state cattle associations and 18 affiliated national breed organizations.

MR. CHAIRMAN:

Of course, water is essential to farming and ranching operations. Farmers and ranchers have invested millions of dollars in the development of water projects that help sustain their enterprises.

It, therefore, should not be surprising that the National Cattlemen's Association and its affiliated state associations are interested in the impact, or potential impact, upon agriculture of any legislation described as promoting the acquisition and conservation of wetlands to prevent the loss of migratory waterfowl and other habitat. We do not contest such laudatory goals, but we want to be sure that the needs of agriculture are also considered in any such program.

The National Cattlemen's Association (NCA) and some of its state affiliates did have questions and did express concern about the bill S.740 and about the National Wetlands Inventory project. In regard to the latter, our concern was that the aerial mapping appeared to be identifying as wetlands, areas that were not significant or permanent wildlife habitat.

However, in an attempt to be constructive, and not just negative, representatives of NCA and some other groups which had some reservations about S.740 met several times this year with a number of representatives of wildlife groups (including those interested in fish resources) that favored passage of S.740. The purposes of these meetings, as far as we were concerned, were to gain a better understanding of the bill S.740 and, by frank exchange of views and concerns, see if we couldn't reach mutual agreement on the legislation.

I am pleased to report that these purposes were achieved through these meetings. The groups jointly agreed to recommend to you several changes in the bill and some report language that would alleviate the concerns that livestock people have expressed about this bill and similar legislation. These recommendations were submitted to you in a joint letter of October 31, 1985. Signers of this letter are representatives of Ducks Unlimited, National Wildlife Federation, International Association of Fish and Wildlife Agencies, Texas and Southwestern Cattle Raisers Association, National Cattlemen's Association, Wildlife Management Institute, National Rifle Association of America, and the General Land Office of the State of Texas.

The letter recommends, in summary, that:

1. The bill use the definition for wetlands that appears in the so-called "swampbuster" amendment to the currently pending Farm Bill. This is a precise scientific definition that would exclude certain areas that are not truly waterfowl or fish habitat.
2. Committee report encourage public review of preliminary National Wetlands Inventory identifications.
3. The report to Congress on wetlands, called for in the bill, be broadened.

4. The meaning of "associated areas" be clarified.
5. A provision be included that insures that enhancement money is spent on areas in which the State can protect the investment.
6. Certain agricultural projects be made exempt from eminent domain acquisition.

We believe these suggestions are reasonable and consistent with the intent of the bill sponsors. We consider them to be perfecting language and we hope this subcommittee will accept our recommendations.

With these changes and clarifications, we are prepared to support S.740 and to urge its adoption. We appreciate the importance of preserving quality waterfowl and fish habitat and we believe that a sound wetlands preservation and enhancement program would be in the public interest.

S. 740, Emergency Wetlands Resources Act of 1985

Testimony of
John M. Shelton III,
President of
Texas and Southwestern Cattle Raisers Association

Submitted to
Environmental Pollution Subcommittee of the
Senate Committee on Environment and Public Works

November 18, 1985

in

Washington, D.C.

Texas and Southwestern Cattle Raisers Association, headquartered in Fort Worth, Texas, is a 108-year-old trade association representing approximately 14,000 working cattlemen in Texas, Oklahoma and surrounding states. For additional information, contact TSCRA, 1301 W. Seventh, Fort Worth, Texas 76102 or 817/332-7064.

My name is John M. Shelton III. I am a cattleman from Amarillo, Texas. Currently, I serve as president of the Texas and Southwestern Cattle Raisers Association, a 108-year-old cattlemen's organization representing 14,000 working cattlemen primarily in Texas and Oklahoma.

I am pleased to have the opportunity to submit written testimony before the Environmental Pollution Subcommittee of the Senate Committee on Environment and Public Works concerning S. 740, the Emergency Wetlands Resources Act of 1985.

We appreciate and share with you an abiding concern for preserving our nation's wetlands and wildlife habitat. As managers of wildlife, we fully understand the interdependent relationship of wildlife and agriculture.

It was our concern that S. 740 was written in a manner that could be interpreted broadly. So broadly, in fact, that it could have become a federal land use tool which we believe was not the intent of this legislation. We were afraid that land that was clearly not wetlands might be covered under the broad definition and this could lead to problems for private landowners. Let me hasten to say that we were not the only ones that saw potential problems with some of the language in this bill. But, we did have questions and we addressed them to the senior senator from Texas who is the ranking minority member of the full committee.

Let me take this opportunity to officially thank Senator Bentsen

(more)

for the time and effort he and his staff expended in addressing our concerns. The Senator has a long record of championing the rights of the private landowner. We knew then as we do now that Senator Bentsen would never sponsor legislation that would adversely effect the private landowner.

As you may know, S. 740 has had the strong support of the National Rifle Association and Ducks Unlimited. Many of our members belong to these fine organizations. With the help of the National Cattlemen's Association and with assistance from Senator Bentsen's staff, we were able to meet privately to air our concerns and work at resolving those concerns.

On October 31, 1985, Ducks Unlimited, National Wildlife Federation, the International Association of Fish and Wildlife Agencies, the National Cattlemen's Association, the National Rifle Association, the Wildlife Management Institute, the General Land Office of the State of Texas and this Association co-signed a letter to Senator John H. Chafee, chairman of the Subcommittee on Environmental Pollution, Committee on Environment and Public Works, that recommends certain bill changes and report language. Notice of this agreement will be promptly conveyed to the grassroots members of our organizations.

I respectfully ask that this letter (SEE ATTACHMENT) be entered in the official record of this hearing as part of this Association's written testimony to the subcommittee.

We believe these changes if implemented should do much to strengthen this bill. Incorporation would, in our opinion, balance

the dual priorities of wetland preservation and private property rights to our members' satisfaction. We respectfully ask that you give serious consideration to these proposals.

In closing I would like to thank you for this opportunity to clarify our position on S. 740. We appreciate the worthwhile goals of this legislation and applaud Senator Bentsen for his patience, understanding and willingness to listen and respond to our position.

Thank you.

-TSCRA-

October 31, 1985

Hon. John H. Chafee, Chairman
Subcommittee on Environmental Protection
Committee on Environment and Public Works
Senate Office Building
Washington, D.C. 20515

SUBJECT: S. 740, the "Emergency Wetlands Resources Act,
that is now pending before the subcommittee

Dear Mr. Chairman:

Representatives of the undersigned organizations have held a number of meetings and discussions to overcome misunderstandings that have arisen with respect to bill S.740 and to develop a broader appreciation for its objectives and need. The undersigned have agreed to jointly recommend the following bill changes and report language. Notice of this agreement will be promptly conveyed to the grassroots members of our organizations.

1. In the Definitions section (Sec. 3), the definitions below should be substituted for the definition now in S.740 for "wetland".
(Note: These definitions appear in the "swampbuster" amendment to the 1985 farm bill.)
 - (a) The term "wetland" means an area (including a swamp, marsh, bog, prairie pothole, or similar area) having a predominance of hydric soils that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances supports, the growth and regeneration of hydrophytic vegetation.
 - (b) The term "hydric soil" means soil that, in its undrained condition, is saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation.
 - (c) The term "hydrophytic vegetation" means a plant growing in--
 - (a) water; or
 - (b) a substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content.
2. To insure the accuracy of information on wetlands collected in the National Wetlands Inventory Project, we recommend that Committee report language direct the Secretary through the U.S. Fish and Wildlife Service to:
 - (a) coordinate, cooperate and consult with other federal agencies and with state agencies in the validation of initial or draft wetlands identifications; and

(b) make preliminary or draft wetlands maps available for public inspection in: (1) Fish and Wildlife Service field offices; (2) district soil and water conservation offices; and (3) any other local offices deemed appropriate. It also should be directed that notices of such availability be inserted in newspapers of general circulation in the areas covered by such maps. These procedures will give interested private landowners more opportunities to review this information.

3. We believe that Sec. 402 ("Report to Congress") should be rewritten to accomodate the following:

(a) The Secretary of the Interior should be directed to prepare the report "in consultation and cooperation with the Secretary of Agriculture." These words could be added after "Secretary" on line 2, page 21 of the bill. Input from the Department of Agriculture would be helpful.

(b) The present language of Sec. 402 is such that it calls for a report on influences which impact wetlands negatively. It mandates a report on wetlands "losses" and on the causes of wetlands "destruction and degradation." Undoubtedly, there are wetlands losses but there also are wetlands gains: programs, activities, and expenditures which have a positive influence on wetlands, i.e., enhance wetlands. The language should be broadened to call for a report on the status, condition, and trends in wetlands resources. The items listed in Sec. 402(b) should refer to all impacts, not just those of a negative kind. We believe it would be useful to know what actions, programs, expenditures, etc., enhance wetlands.

4. Questions have been raised about the meaning of the term "associated areas" which appears in the definition of "wetlands acquisition" in Sec. 301 of the bill. To counter any fear that this would lead to the acquisition of vast areas surrounding wetlands, we believe that "associated areas" should be defined and explained in committee report language such as the following:

"An 'associated area' is the adjacent land that is clearly essential to maintaining the values of a particular wetland. The Committee does not intend that funds made available by this Act be used to acquire associated areas beyond what is reasonably needed to protect the wetlands and their values. Prudence and limited funds should direct that only essential areas be acquired.

"Furthermore, the Committee intends that the U.S. Fish and Wildlife Service continue its present policy of normally acquiring land only from willing sellers. The Committee directs the Service to continue to use condemnation proceedings only in unusual cases when damages to wetlands resources cannot otherwise be prevented or in cases where its use would assist to clear title from a willing seller."

5. Paragraph (9) of Sec. 301 (b)--lines 8 & 9 of page 18--should be renumbered as paragraph (10) and the following new paragraph (9) should be inserted:

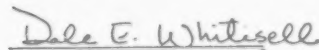
"No enhancement project shall be approved unless the State holds an interest in perpetuity on the land involved."

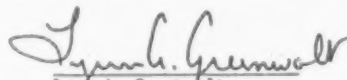
6. The bill should bar acquisition by condemnation of:
 (1) water developments constructed by farmers and ranchers; and
 (2) wetlands resulting from farming and ranching production and conservation activities.

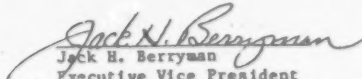
These recommendations would alleviate the apprehensions previously expressed by the National Cattlemen's Association and its affiliated state associations. While not all of the signatories shared those concerns, we believe our joint recommendations would clarify that this legislation did not, and will not infringe on private property rights, promote unlimited acquisition of private lands, or sanction national land use planning.

We hope you will agree that the recommendations above are reasonable and consistent with the intent of this legislation when it was introduced.

Sincerely,


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 Chicago, IL 60666


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 National Wildlife Federation
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Garry Mauro

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THE WILDLIFE LEGISLATIVE FUND OF AMERICA

To protect the Heritage of the American Sportsman to hunt, to fish and to trap.

1612 K Street, N.W.
Suite 1101
Washington, D.C. 20006
202 466-4407

STATEMENT IN SUPPORT OF S. 740

"A BILL TO PROMOTE THE CONSERVATION OF
MIGRATORY WATERFOWL AND TO OFFSET OR
PREVENT THE SERIOUS LOSS OF WETLANDS
AND OTHER ESSENTIAL HABITAT"

Submitted to
ENVIRONMENTAL POLLUTION SUBCOMMITTEE
of the
SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE

By
THE WILDLIFE LEGISLATIVE FUND OF AMERICA

November 18, 1985

Washington, D.C.

The Wildlife Legislative Fund of America (WLFA) is a non-profit organization whose purposes are to protect scientific wildlife management practices and to protect interests of American sportsmen and sportswomen who hunt, fish and trap. The WLFA is an association of conservation organizations with an aggregate membership of 750,000. Perhaps the largest and best known of these groups is Ducks Unlimited which spends \$50 million each year to acquire and maintain waterfowl habitat in North America. The WLFA supports S. 740, a bill that will promote the conservation of migratory waterfowl and will offset or prevent the serious loss of wetlands by the acquisition of wetlands and other essential habitat.

The nation's wetlands are being destroyed at an alarming rate. According to the U. S. Fish and Wildlife Service, 458,000 acres of wetlands each year are lost nationwide. It has been estimated that nine million wetland acres were lost between the 1950's and 1970's. Only 99 million acres of wetlands are left in the lower 48 states.

If this trend of wetlands destruction continues, according to the U. S. Fish and Wildlife Service, virtually no waterfowl breeding habitat will be left by the year 2083.

Wetlands are important to everyone; not only to sportsmen, other recreationists and commercial interests. Besides providing habitat and breeding grounds for wildlife and plants, wetlands

are a natural means of flood and erosion control. They improve water quality by trapping and filtering pollutants and recharging ground water supplies.

The legislation before the Subcommittee today is a major step in the conservation of wetlands and wildlife resources.

S. 740 annually appropriates \$75 million from the Land and Water Conservation Fund to the Wetlands Conservation Fund for ten years. This money would be used for federal and state wetlands acquisition and maintenance. The Land and Water Conservation Fund is the most logical source of these funds. Since wetlands preservation is a priority of the conservation movement, no controversy should surround the use of these funds for state and federal wetlands acquisition and maintenance.

Sportsmen always have supported earmarked funds for wildlife conservation. In fact, America's successful programs of wildlife management have historically been supported by these funds. Sportsmen have been the source of the lion's share of the funds used for wildlife conservation in this country. Their contributions through excise taxes on sporting equipment, license fees and special stamps and permits to date total over \$3 billion. Federal duck stamp revenues, provided by waterfowl hunters, have been the financial backbone of governmental wetlands acquisition programs to date. S. 740 carries on that tradition.

The WLFA is confident that S. 740 will have a definite and

beneficial impact on America's troubled wetlands. It will permit state and federal wildlife agencies to acquire and maintain some important wetlands areas. As Congress moves toward passage of this legislation, it should begin to focus on subsequent far-reaching steps to ensure a bright future for wetlands and the plant and animal life they support.

Government acquisition of wetlands is an important step toward curing the ills that beset wetlands. However, of America's 99 million acres of wetlands, only 8.2 million acres are under state and federal protection. The majority of our wetlands are in private ownership and government will never be able to purchase the areas needed to solve the problems facing waterfowl and other wildlife dependent on wetlands. It is vital that private owners be encouraged to maintain and restore wetlands. We believe future legislation to provide incentives to wetland owners is key if wetlands are to endure. For example, we are particularly pleased with the current Farm legislation (S. 1714 and H.R. 2100) which contains "swampbuster" and conservation easement language that will aid in wetlands preservation.

In conclusion, the WLFA reiterates its support for S. 740. We hope that the issue of wetlands protection does not end with passage of S. 740 and that you see this legislation as an important first step in the protection of America's wetlands resources. There is more to be done.

99TH CONGRESS
1ST SESSION

S. 740

To extend until October 1, 1995, the authority for appropriations to promote the conservation of migratory waterfowl and to offset or prevent the serious loss of wetlands and other essential habitat, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 26 (legislative day, FEBRUARY 18), 1985

Mr. CHAFEE (for himself, Mr. STAFFORD, Mr. DURENBERGER, Mr. BENTSEN, and Mr. MITCHELL) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To extend until October 1, 1995, the authority for appropriations to promote the conservation of migratory waterfowl and to offset or prevent the serious loss of wetlands and other essential habitat, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Emergency Wetlands
4 Resources Act of 1985".

5 FINDINGS AND STATEMENT OF PURPOSE

6 SEC. 2. (a) FINDINGS.—The Congress finds that—

7 (1) wetlands play an integral role in maintaining
8 the quality of life through material contributions to our

1 national economy, food supply, water supply and qual-
2 ity, flood control, and fish, wildlife, and plant re-
3 sources, and thus to the health, safety, recreation, and
4 economic well-being of all our citizens;

5 (2) wetlands provide habitat essential for the
6 breeding, spawning, nesting, migration, wintering and
7 ultimate survival of a major portion of the Nation's mi-
8 gratory and resident fish and wildlife, including migra-
9 tory birds, endangered species, commercially and rec-
10 reationally important finfish, shellfish and other aquatic
11 organisms, and contain many unique species and com-
12 munities of wild plants;

13 (3) our Nation's migratory bird treaty obligations
14 with Canada, Mexico, Japan, the Union of Soviet So-
15 cialist Republics, and with various countries in the
16 Western Hemisphere require Federal protection of
17 wetlands used by migratory birds for breeding, winter-
18 ing or migration and needed to achieve and to maintain
19 optimum population levels, distributions, and patterns
20 of migration;

21 (4) wetlands, and the fish, wildlife, and plants de-
22 pendent thereon, provide significant recreational and
23 commercial benefits, including—

24 (A) contributions to a commercial marine
25 harvest valued at over \$10,000,000,000 annually;

1 (B) support for a major portion of the Na-
2 tion's multi-million dollar annual fur and hide har-
3 vest; and

4 (C) fishing, hunting, birdwatching, nature ob-
5 servation and other wetland-related recreational
6 activities that generate billions of dollars annually;

7 (5) wetlands enhance the Nation's water quality
8 and supply by serving as groundwater recharge areas,
9 nutrient traps, and chemical sinks;

10 (6) wetlands provide a natural means of flood and
11 erosion control by retaining water during periods of
12 high runoff, thereby protecting against loss of life and
13 property;

14 (7) wetlands constitute only a small percentage of
15 the land area of the United States, are estimated to
16 have been reduced by half in the contiguous States
17 since the founding of our Nation, and continue to dis-
18 appear by hundreds of thousands of acres each year;

19 (8) certain activities of the Federal Government
20 have inappropriately altered or assisted in the alter-
21 ation of wetlands, thereby unnecessarily stimulating
22 and accelerating the loss of these valuable resources
23 and the environmental and economic benefits that they
24 provide; and

1 (9) the existing Federal, State, and private coop-
2 eration in wetlands conservation should be strength-
3 ened in order to minimize further losses of these valua-
4 ble areas and to assure their management in the public
5 interest for this and future generations.

6 (b) PURPOSE.—It is the purpose of this Act to promote,
7 in concert with other Federal and State statutes and pro-
8 grams, the conservation of our Nation's wetlands in order to
9 maintain the public benefits they provide and to fulfill inter-
10 national obligations contained in various migratory bird trea-
11 ties and conventions with Canada, Mexico, Japan, the Union
12 of Soviet Socialist Republics, and with various countries in
13 the Western Hemisphere by—

14 (1) intensifying cooperative efforts among private
15 interests and local, State, and Federal governments for
16 the management and conservation of wetlands; and

17 (2) intensifying efforts to protect the Nation's wet-
18 lands through acquisition in fee, easements or other in-
19 terests and methods by local, State, and Federal gov-
20 ernments and the private sector.

21

DEFINITIONS

22

SEC. 3. For purposes of this Act, the term—

23

24

(a) "Committees" means the Committee on Mer-
chant Marine and Fisheries of the House of Represent-

1 atives and the Committee on Environment and Public
2 Works of the Senate;

3 (b) "Secretary" means the Secretary of the Interi-
4 or; and

5 (c) "wetland" means land transitional between
6 terrestrial and aquatic systems where the water table
7 is usually at or near the surface or the land is covered
8 by shallow water. Generally, wetlands are areas inun-
9 dated or saturated by surface or ground water fre-
10 quently enough and for long enough duration to sup-
11 port a prevalence of plants or animals typically adapted
12 to life in saturated soil conditions including but not lim-
13 ited to such areas as coastal or inland marshes or estu-
14 aries, river-associated water-saturated areas, inland
15 lakes, potholes, bogs, mudflats, or bottomland hard-
16 wood forests.

17 TITLE I—EXTENSION OF WETLANDS LOAN ACT

18 SEC. 101. (a) The first section of the Act entitled "An
19 Act to promote the conservation of migratory waterfowl by
20 the acquisition of wetlands, and for other essential waterfowl
21 habitat, and for other purposes", approved October 4, 1961
22 (75 Stat. 813; 16 U.S.C. 715k-3) (referred to in this Act as
23 the "Wetlands Loan Act"), is amended by striking out "Sep-
24 tember 30, 1986" and inserting in lieu thereof "September
25 30, 1996".

1 (b) Section 3 of the Wetlands Loan Act (75 Stat. 813;
2 16 U.S.C. 715k-5) is amended by striking out the first three
3 sentences thereof.

4 TITLE II—REVENUES FOR MIGRATORY BIRD
5 CONSERVATION FUND

6 ADMISSION FEES AT CERTAIN REFUGE UNITS

7 SEC. 201. (a) Notwithstanding the provisions of the
8 Land and Water Conservation Fund Act of 1965 (78 Stat.
9 897; 16 U.S.C. 4601-4 et seq.), in order to provide additional
10 revenues for the conservation of the Nation's wetland re-
11 sources, entrance or admission fees may be charged at cer-
12 tain units of the National Wildlife Refuge System designated
13 by the Secretary of the Interior for such fees (referred to in
14 this Act as "designated units").

15 (b) A valid migratory bird hunting and conservation
16 stamp, as established under the Act of March 16, 1934 (48
17 Stat. 451; 16 U.S.C. 718a), as amended, or a valid Golden
18 Eagle Passport, as established under the Land and Water
19 Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C.
20 4601-4 et seq.), shall function as a permit for entry into any
21 designated unit. Use of a valid migratory bird hunting and
22 conservation stamp as a permit under this subsection shall
23 not affect the requirements of the Act of March 16, 1934 (48
24 Stat. 451; 16 U.S.C. 718a), as amended, relating to the
25 taking of migratory waterfowl.

1 (c)(1) Permits for a single visit to any designated unit
2 shall be made available by the Secretary of the Interior at
3 reasonable admission fees for persons who choose not to pur-
4 chase an annual permit as provided in subsection (b) of this
5 section. For purposes of this subsection, "single visit" means
6 a more or less continuous stay within a designated unit by a
7 person or group described in subsection (d) of this section.
8 Payment of a single visit admission fee and issuance of a
9 single visit permit shall authorize exits from and re-entries to
10 a single designated unit for a period of from one to fifteen
11 days. Such period shall be defined for each designated unit by
12 the Secretary based upon a determination of the period of
13 time reasonably and ordinarily necessary for such a single
14 visit.

15 (2) Special admission permits for uses such as group ac-
16 tivities may be issued in accordance with procedures and at
17 fees established by the Secretary.

18 (3) Notwithstanding section 401 of the Act of June 15,
19 1935 (49 Stat. 383; 16 U.S.C. 715a), as amended, revenues
20 from permits under this subsection, less 10 per centum to be
21 used—

22 (A) to defray administrative costs incurred by the
23 Secretary in providing for such permits; and

24 (B) for the purposes for which the designated
25 units have been established;

1 shall be paid into the migratory bird conservation fund estab-
2 lished under section 4 of the Act of March 16, 1934 (48 Stat.
3 451; 16 U.S.C. 718d), as amended.

4 (d) A permittee pursuant to subsection (b) or (c) of this
5 section and any persons accompanying such permittee in a
6 single, private, noncommercial vehicle, or, where entry to the
7 area is by any means other than a single, private noncom-
8 mercial vehicle, the permittee and any accompanying spouse,
9 children, or parents shall be entitled to general entrance into
10 any designated unit.

11 (e) The Secretary of the Interior shall establish proce-
12 dures providing for the issuance of a lifetime admission
13 permit to any citizen of, or person domiciled in, the United
14 States, if such citizen or person applies for such permit, and
15 is blind, or permanently disabled. Such procedures shall
16 assure that such permit shall be issued only to persons who
17 have been medically determined to be blind or permanently
18 disabled for purposes of receiving benefits under Federal law
19 as a result of said blindness or permanent disability as deter-
20 mined by the Secretary. Such permit shall be nontransferable
21 and shall be issued without charge.

22 (f) The Secretary of the Interior shall establish proce-
23 dures providing for the issuance of a lifetime admission
24 permit to any citizen of, or person domiciled in, the United
25 States, if such citizen or person applies for such permit, and

1 is sixty-two years of age or older. Such permit shall be non-
2 transferable and shall be issued without charge.

3 (g) No admission fee shall be charged for travel by pri-
4 vate noncommercial vehicle over any road or highway estab-
5 lished as part of the National Federal Aid System, as defined
6 in section 101 of title 23, United States Code, which is com-
7 monly used by the public as a means of travel between two
8 places which are outside the designated unit. Nor shall any
9 fee be charged for travel by private noncommercial vehicle
10 over any road or highway to any land in which such person
11 has a property interest if such land is within any designated
12 unit.

13 (h) Any permit authorized by this section shall be non-
14 transferable and shall be available for purchase at any desig-
15 nated unit. Such permit shall not authorize any uses for
16 which fees are charged under the Land and Water Conserva-
17 tion Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-4 et
18 seq.).

19 (i) All fees established pursuant to this section shall be
20 fair and equitable, taking into consideration the direct and
21 indirect cost to the Government, the benefits to the recipient,
22 the public policy or interest served, the comparable fees
23 charged by non-Federal public agencies, the economic and
24 administrative feasibility of fee collection and other pertinent
25 factors. Clear notice that a fee has been established pursuant

1 to this section shall be prominently posted at each designated
2 unit and at appropriate locations therein and, to the extent
3 practicable, shall be included in publications distributed at
4 such units.

5 (j) Periodic reports indicating the number and location of
6 fee collection areas, the number and location of potential fee
7 collection areas, capacity and visitation information, the fees
8 collected, and other pertinent data, shall be coordinated and
9 compiled by the United States Fish and Wildlife Service and
10 transmitted to the Committee on Merchant Marine and Fish-
11 eries of the United States House of Representatives and the
12 Committee on Environment and Public Works of the United
13 States Senate. Such reports, which shall be transmitted no
14 later than March 31 annually, shall include any recommenda-
15 tions which the Service may have with respect to improving
16 this aspect of the migratory bird conservation fund program.

17 PRICE OF MIGRATORY BIRD HUNTING AND CONSERVATION

18 STAMP

19 SEC. 202. Section 2(b) of the Act of March 16, 1934
20 (48 Stat. 451; 16 U.S.C. 718b), as amended, is amended by
21 striking out "\$7.50" and inserting in lieu thereof "\$10.00"
22 and by striking out "any hunting year" and inserting in lieu
23 thereof "hunting years 1986 and 1987, \$12.50 for hunting
24 years 1988 and 1989, and \$15.00 for each hunting year
25 thereafter,".

1 TRANSFERS TO MIGRATORY BIRD CONSERVATION FUND

2 SEC. 203. Notwithstanding any other provision of law,
3 an amount equal to the amount of all import duties collected
4 on arms and ammunition, as specified in subpart A of part 5
5 of schedule 7 of the Tariff Schedules of the United States,
6 shall, after the date of the enactment of this Act, be paid
7 quarterly into the migratory bird conservation fund estab-
8 lished under section 4 of the Act of March 16, 1934 (48 Stat.
9 451; 16 U.S.C. 718d), as amended.

10 SEC. 204. (a) There is established in the Treasury of the
11 United States a fund to be known as the Wetlands Conserva-
12 tion Fund consisting of the amounts that are transferred to it
13 under subsection (b).

14 (b) For each fiscal year beginning on October 1, 1985,
15 and ending on the close of September 30, 1995, there shall
16 be transferred \$75,000,000 to the fund from the land and
17 water conservation fund established under section 2 of the
18 Land and Water Conservation Fund Act of 1965 (16 U.S.C.
19 4601-5).

20 (c)(1) For each fiscal year referred to in subsection (b),
21 there is authorized to be appropriated from the Wetlands
22 Conservation Fund \$75,000,000 to carry out sections 205
23 and 301.

24 (2) Of any sum appropriated for any fiscal year under
25 paragraph (1)—

1 (A) such percentage of that sum (but not more
2 than 66⅔ per centum thereof) as is considered appro-
3 priate by the Secretary may be expended to carry out
4 section 301; and

5 (B) the remainder of such sum shall be expended
6 to carry out section 205.

7 SEC. 205. The Secretary is authorized to carry out Fed-
8 eral acquisitions that are consistent with the wetlands priori-
9 ty conservation plan established under section 302 of this
10 Act: *Provided*, That for fiscal years 1986 and 1987 the Sec-
11 retary shall carry out Federal wetlands acquisitions as direct-
12 ed in applicable appropriations Acts.

13 SEC. 206. Section 7(a)(1) of the Land and Water Con-
14 servation Fund Act of 1965 (16 U.S.C. 460l-9(a)(1)) is
15 amended by striking out "except migratory waterfowl areas
16 which are authorized to be acquired by the Migratory Bird
17 Conservation Act of 1929, as amended (16 U.S.C. 715-
18 715s)".

19 TITLE III—FINANCIAL ASSISTANCE TO STATES
20 FOR WETLANDS CONSERVATION

21 SEC. 301. (a) Subsection (b) of section 4 of the Act of
22 March 16, 1934 (48 Stat. 451; 16 U.S.C. 718d), as amend-
23 ed, is amended by striking out "subsection (c)" and inserting
24 in lieu thereof "subsections (c) and (d)".

1 (b) Section 4 of the Act of March 16, 1934 (48 Stat.
2 451; 16 U.S.C. 718d), as amended, is amended by inserting
3 at the end thereof the following new subsections:

4 “(d)(1) For the purposes of this subsection—

5 “(A) the term ‘wetlands acquisition’ means obtain-
6 ing a property interest in wetlands or associated areas
7 by purchase or lease if obtaining such interest contrib-
8 utes appreciably to the long-term preservation of said
9 wetlands and associated populations of fish, wildlife,
10 and plants;

11 “(B) the term ‘wetlands conservation’ means wet-
12 lands acquisition or wetlands enhancement;

13 “(C) the term ‘wetlands enhancement’ means a
14 project (which may include but is not limited to con-
15 struction, fresh water flow control, and the introduction
16 of appropriate flora) that will (i) establish a wetland,
17 (ii) increase the size of an existing wetland, or (iii) re-
18 store the natural quality of an existing wetland.

19 “(2) For the period beginning on October 1, 1985, and
20 ending at the close of September 30, 1995, the Secretary of
21 the Interior is authorized to provide from the fund financial
22 assistance not to exceed \$50,000,000 annually to the States
23 for purposes of wetlands conservation. Payments for such
24 purposes shall be made to the States as hereinafter provided,

1 subject to such terms and conditions as the Secretary consid-
2 ers appropriate and in the public interest.

3 “(3) For each fiscal year, sums available from the fund
4 for wetlands conservation under this subsection shall, after
5 deduction by the Secretary of an amount necessary (not to
6 exceed 4 per centum of the total of amounts allocated to the
7 States under this subsection) to defray the administrative
8 costs incurred by the Secretary in administering this subsec-
9 tion shall be apportioned among the States as follows:

10 “(i) 50 per centum thereof shall be apportioned on
11 the basis of the ratio, as determined by the Secretary,
12 which each State’s obligation of funds other than Fed-
13 eral funds, to wetlands conservation in that State bears
14 to the total amount of funds other than Federal funds,
15 obligated by all such States to wetlands conservation
16 during the most recent fiscal year for which the calcu-
17 lation of such funds is practicable; and

18 “(ii) 50 per centum thereof shall be apportioned
19 on the basis of the extent to which the respective
20 States propose to carry out wetlands acquisition and
21 enhancement projects that are consistent with the na-
22 tional wetlands priority conservation plan established
23 under section 302 of the Emergency Wetlands Re-
24 sources Act of 1985.

1 Apportionments made under this subsection shall be adjusted
2 equitably so that no less than one-half of 1 per centum of the
3 total amount apportioned shall be allocated to each State that
4 elects to avail itself of the benefits of this subsection.

5 “(4) A State may elect to avail itself of the benefits of
6 this subsection by:

7 “(A) submitting to the Secretary a comprehensive
8 fish and wildlife resource management plan which shall
9 ensure the perpetuation of these resources for the eco-
10 nomic, scientific and recreational enrichment of the
11 people. Such plans will be prepared with opportunity
12 for public comment and provided in a format required
13 by the Secretary which shall be compatible with stand-
14 ards and formats required of States for other fish and
15 wildlife grants administered by the Secretary, particu-
16 larly the Federal Aid in Wildlife Restoration Act (16
17 U.S.C. 669 et seq.), Federal Aid in Sport Fish Resto-
18 ration Act (16 U.S.C. 777 et seq.), and Fish and Wild-
19 life Conservation Act of 1980 (16 U.S.C. 2901 et
20 seq.). If the Secretary finds that such plans conform to
21 standards established by him and approves such plans,
22 he may finance up to 75 per centum of the cost of im-
23 plementing segments of those plans meeting the pur-
24 poses of this subsection from funds apportioned under
25 this subsection; or

1 “(B) submitting to the Secretary full and detailed
2 statements of any wetlands conservation project pro-
3 posed for that State. If the Secretary finds, after op-
4 portunity for public comment, that such project meets
5 with the standards set by him and approves said
6 project, the State shall furnish the Secretary such sur-
7 veys, plans, specifications, and estimates therefore as
8 may be required. If the Secretary approves the plans,
9 specifications, and estimates for the project, he shall so
10 notify the State within ninety days of receiving said
11 plans, specifications, and estimates and immediately set
12 aside so much of the fund as represents the share of
13 the United States payable under this subsection on ac-
14 count of such project, which sum so set aside shall not
15 exceed 75 per centum of the total estimated cost
16 thereof.

17 “(5) The Secretary shall approve only such comprehen-
18 sive plans or projects as may be substantial in character and
19 design and the expenditure of funds hereby authorized shall
20 be applied only to such approved wetlands conservation plans
21 or projects and if otherwise applied they shall be replaced by
22 the State before it may participate in any further apportion-
23 ment under this subsection. No payment of any money appor-
24 tioned under this subsection shall be made on any compre-
25 hensive wetlands conservation plan or project until an agree-

1 ment to participate therein shall have been submitted to and
2 approved by the Secretary.

3 “(6) When the Secretary finds that any approved project
4 or segment of an approved comprehensive plan has been
5 completed in compliance with approved plans and specifica-
6 tions or an approved comprehensive plan the Secretary shall
7 cause to be paid to the proper authority of such State the
8 amount set aside for said project or plan. The Secretary may
9 from time to time make payments on said project or plan as
10 the same progresses; but these payments, including previous
11 payments, if any, shall not be more than the United States’
12 pro rata share of the project in conformity with said plans
13 and specifications or said comprehensive plan.

14 “(7) The Secretary may enter into agreements to fund
15 an initial portion of a project and to agree to fund the remain-
16 ing costs from subsequent apportionments if and when they
17 become available. The liability of the United States in such
18 an agreement is contingent upon the continued availability of
19 funds for the purposes of this subsection.

20 “(8) Any amount of any apportionment under paragraph
21 (3) of this subsection that for any fiscal year remains unobli-
22 gated at the close thereof shall continue to be available for
23 obligation until the close of the succeeding fiscal year. At the
24 close of such succeeding fiscal year, such amounts shall be
25 available to the Secretary for one additional fiscal year for

1 obligation, without regard to paragraph (3) of this subsection,
2 to the States to carry out the purposes of this subsection. At
3 the close of this additional fiscal year, any unobligated
4 amounts shall remain in the migratory bird conservation fund
5 established under section 4 of the Act of March 16, 1934 (48
6 Stat. 451; 16 U.S.C. 718d), as amended, and shall become
7 available for expenditure under said Act.

8 “(9) The Secretary is authorized to make rules and reg-
9 ulations for carrying out the provisions of this subsection.”.

10 SEC. 302. The Secretary, after consultation with the
11 Administrator of the Environmental Protection Agency, the
12 Secretary of Commerce, the Secretary of Agriculture, and
13 the States, shall establish, and periodically review and revise,
14 a national wetlands priority conservation plan which shall
15 specify, on a region-by-region or other basis deemed appro-
16 priate by the Secretary, the types of wetlands to which prior-
17 ity should be given with respect to wetlands acquisition and
18 the implementation of enhancement projects. For the pur-
19 poses of this section, the terms “wetlands acquisition” and
20 “enhancement” shall have the same meaning as set forth in
21 subsection (d) of section 4 of the Act of March 16, 1934 (48
22 Stat. 451; 16 U.S.C. 718d), as amended by this Act. In es-
23 tablishing such priorities, the Secretary shall take into ac-
24 count—

1 (1) the significance of the loss or threat of loss of
2 the respective types of wetlands; and

3 (2) the contributions which the respective types of
4 wetlands make to—

5 (A) wildlife, including endangered and threat-
6 ened species, migratory birds, and resident spe-
7 cies,

8 (B) commercial and sport fisheries, and

9 (C) surface and ground water quality and
10 quantity, and flood control.

11 TITLE IV—WETLANDS INVENTORY AND TREND
12 ANALYSIS

13 SEC. 401. (a) The Secretary, acting through the Direc-
14 tor of the United States Fish and Wildlife Service, shall con-
15 tinue the National Wetlands Inventory Project and shall—

16 (1) produce, by September 30, 1988, National
17 Wetlands Inventory maps for the areas that have been
18 identified by the Service as top priorities for mapping,
19 including the entire coastal zone of the United States,
20 floodplains of major rivers and the Prairie Pothole
21 Region;

22 (2) produce, by September 30, 1990, National
23 Wetlands Inventory maps for those portions of the con-
24 tiguous United States for which final maps have not
25 been produced earlier;

1 (3) produce, as soon as practicable, National Wet-
2 lands Inventory maps for Alaska and other noncontigu-
3 ous portions of the United States; and

4 (4) produce, by September 30, 1986, and at ten
5 year intervals thereafter, reports to update and im-
6 prove the information contained in the report dated
7 September 1982 and entitled "Status and Trends of
8 Wetlands and Deepwater Habitat in the Coterminous
9 United States, 1950's to 1970's".

10 (b) There is authorized to be appropriated the following
11 sums, to remain available until expended:

12 (1) \$14,500,000 per fiscal year for the fiscal years
13 beginning on October 1, 1985, and ending at the close
14 of September 30, 1988, to carry out paragraph (1) of
15 subsection (a) of this section;

16 (2) \$6,750,000 per fiscal year for the fiscal years
17 beginning on October 1, 1988, and ending at the close
18 of September 30, 1995, to carry out paragraphs (2)
19 and (3) of subsection (a) of this section; and

20 (3) \$900,000 per fiscal year for the fiscal years
21 beginning on October 1, 1985, and ending at the close
22 of September 30, 1995, to carry out paragraph (4) of
23 subsection (a) of this section.

REPORT TO CONGRESS

1

2 SEC. 402. (a) The Secretary shall, by September 30,
3 1986, prepare and submit to the Committees a report regard-
4 ing wetlands losses in the United States.

5 (b) The report required under subsection (a) shall con-
6 tain—

7 (1) an analysis of the causes of wetlands destruc-
8 tion and degradation;

9 (2) a compilation and analysis of Federal statutory
10 and regulatory mechanisms, including expenditures and
11 financial assistance, which induce wetlands destruction
12 or degradation;

13 (3) a compilation and analysis of Federal expendi-
14 tures resulting from wetlands destruction and degrada-
15 tion;

16 (4) an analysis of the environmental and economic
17 impact of eliminating or restricting future Federal ex-
18 penditures and financial assistance, whether direct or
19 indirect, which have the effect of encouraging the de-
20 struction or degradation of wetlands, including but not
21 limited to: public works expenditures; assistance pro-
22 grams such as price support programs, commodity
23 loans and purchase programs and disaster assistance
24 programs; soil conservation programs; and certain
25 income tax provisions;

1 (5) an analysis of the environmental and fiscal
2 impact of failure to restrict future Federal expenditures
3 and financial assistance which have the effect of en-
4 couraging the destruction or degradation of wetlands,
5 including but not limited to: assistance for normal silvi-
6 culture activity (such as plowing, seeding, planting,
7 cultivating, minor drainage, or harvesting for the pro-
8 duction of fiber or forest products); Federal expendi-
9 tures required incident to studies, evaluations, design,
10 construction, operation, maintenance, or rehabilitation
11 of Federal water resource development activities, in-
12 cluding channel improvements; the commodity loans
13 and purchases program and cotton, feed grain, wheat,
14 and rice production stabilization programs administered
15 by the Department of Agriculture; Federal expendi-
16 tures for the construction of publicly owned or publicly
17 operated highways, roads, structures, or facilities that
18 are essential links in a larger network or system; and
19 general revenue sharing grants made under section 102
20 of the State and Local Fiscal Assistance Amendments
21 of 1972 (86 Stat. 919; 31 U.S.C. 1221); and

22 (6) recommendations for the conservation of wet-
23 lands resources based on an evaluation and comparison
24 of all management alternatives, and combinations
25 thereof, such as State and local actions, Federal ac-

1 tions, and initiatives by private organizations and indi-
2 viduals.

3 (c) There is authorized to be appropriated \$1,000,000 to
4 carry out the provisions of this section, which sum shall be
5 available until expended.

○